

1970

*Present* : Sirimane, J., and de Kretser, J.

K. A. GUNASEKERA, Petitioner, and T. B. WEERAKOON  
(Assistant Government Agent, Kurunegala), Respondent

*S. C. 805/69—Applications for Writs of Certiorari and Mandamus on  
T. B. Weerakoon, A. G. A. (Acquiring Officer), Kurunegala, Respondent*

*Certiorari—Mandamus—Effect of undue delay—Effect of an alternative remedy—  
Compulsory acquisition of land—Valuation of the land—Procedure—Land  
Acquisition Act, ss. 7 (c), 9, 63—Land Acquisition Regulations 6, 7.*

The petitioner applied for writs of *certiorari* and *mandamus* to enhance the compensation awarded to him seven months earlier by an Acquiring Officer under the Land Acquisition Act.

*Held*, that the application should be refused because (a) the petitioner was guilty of undue delay in making the application, (b) the petitioner had an alternative remedy.

*Obiter* : To ascertain the market value of a land an Acquiring Officer should not rely solely and entirely on a report sent by an officer of the Valuation Department.

**A**PPPLICATION for Writs of *Certiorari* and *Mandamus*.

*R. L. N. de Zoysa*, for the petitioner.

*G. P. S. de Silva*, Crown Counsel, for the respondent.

*Cur. adv. vult.*

April 24, 1970. SIRIMANE, J.—

The petitioner was awarded a sum of Rs. 3,285 as compensation for an allotment of land two roods and twenty-five perches in extent which was acquired under the Land Acquisition Act, hereinafter referred to as the Act.

Being dissatisfied with the quantum of compensation, he has appealed to the Board of Review against that award.

We are in agreement with the contention of the learned Crown Counsel that this application for a Writ of *Certiorari* quashing the award, and a Writ of *Mandamus* ordering the Acquiring Officer to hold an inquiry under Section 9 of the Act, should be refused because—

- (a) the petitioner has been guilty of undue delay,
- (b) an inquiry, however imperfect has been held and the petitioner has an alternative remedy which he has sought.

The award was made on 17.4.69, and it was more than 7 months later that the present application was made. We consider this period far too long, and there has been no explanation for the delay.

The petitioner's substantive claim is for an enhancement of the quantum of compensation, and it is open to him to lead such evidence in accordance with regulations 6 and 7 of the Land Acquisition Regulations made under Section 63 of the Act (See Vol VII, Subsidiary Legislations, page 558) before the Board of Review, in order to achieve this end.

We must add, however, that the inquiry held by the Acquiring Officer under Section 9 of the Act, is most unsatisfactory.

It is true that the petitioner had failed to comply with the provisions of Section 7 (c) of the Act, which require him to notify to the Acquiring Officer in writing, the nature of his interest in the land, particulars of his claim for compensation, the amount of compensation, and the details of the computation of such amount. At the inquiry, the petitioner merely stated that he expected a sum of Rs. 12,000. But even so, we think that an

Acquiring Officer with all the resources at his command, should not rely solely and entirely on a report sent by an officer of the Valuation Department, in ascertaining the market value of a land. Acquiring Officers should also explain to claimants (who are generally villagers ignorant of procedural matters), their right to challenge the Government Valuer's valuation and lead further evidence, if they so desire, in support of their claims. None of these things had been done by the Acquiring Officer at the inquiry in the present case.

The application is dismissed, but we make no order as to costs.

DE KRETZER, J.—I agree.

*Application dismissed.*