

*Present* : Fisher C.J. and Driberg J.

THE GOVERNMENT AGENT, SOUTHERN PROVINCE. *v.*  
KADIJA UMMA.

4—D. C. (Inty.) Galle, 26,848.

*Land acquisition—Compensation—Building site within street line—Clear proof.*

Where in land acquisition proceedings, it was sought to exclude compensation for a building site on the ground that it fell within an established street line,—

*Held*, that there must be clear proof of the street line and of the fact that it was established before the acquisition.

**A** PPEAL from an order of the District Judge of Galle.

*Rodrigo, C.C.*, for plaintiff, appellant.

*B. F. de Silva*, for defendants, respondents.

March 25, 1930. DRIEBERG J.—

This is an appeal awarding the respondents Rs. 3,840 as compensation for two lots of land, Nos. 154 and 155 in preliminary plan P 1. The appellant tendered a sum of Rs. 802.81—Rs. 251.56 for No. 154 and Rs. 551.25 for No. 155. The respondents claimed Rs. 6,000 and 10 per cent. in addition on that sum. It was agreed by the parties that the evidence recorded in S. C. (Inty.) No. 30, D. C. No. 26,847, and S. C. (Inty.) No. 16, D. C. No. 26,827, should be used for the purposes of this case.

The appeal in this case was taken up together with the appeals in S. C. No. 16 and S. C. No. 30.

The consideration of this case has proceeded upon the assumption that as lot 154 falls within a defined street line as provided by section 18 of Ordinance No. 19 of 1915, the value of these two lots depended mainly on whether a building could be erected on lot 155.

The learned District Judge held that though a building could not be erected on lot 155 alone it had a value as a building site, for the owners of No. 163 and No. 167 on the one side and of No. 146 and No. 147 on the other would be prepared to buy it.

Now No. 167 has not been acquired, but No. 163 has; and it lies between No. 155 and No. 167.

On the northern side No. 147 has been acquired, but not No. 146; the plan (P 1) does not, however, show the line of division between No. 146 and No. 147.

It is not said that a boutique cannot be built on No. 154 and No. 155. There is evidence that a boutique seven feet by eight feet on these two lots would give a rental of Rs. 30 a month, and on the agreed basis of valuation, at sixteen years' purchase, this would support the assessment of the learned District Judge.

1930

DRIEBERG J.

*The Govern-  
ment Agent,  
Southern Pro-  
vince v.  
Kadija  
Umma*

It is sought to exclude this basis of assessment on the ground that lot 154 being within the street line, permission to build on it will not be granted.

Though it is stated that lot 154 lies within a street line, there is no evidence of the line having been proclaimed or when it was proclaimed. The Superintendent of Works of the Municipal Council says he does not know when the street line was approved. There is in P 1 a red line on the plan, which is said to be the street line.

If it was intended to limit the compensation claimed by the respondents on this ground, there should have been clear evidence that there is an established street line and that it was so declared before the acquisition by the Government.

It has not been shown that the assessment by the learned District Judge is not right, and the appeal is dismissed with costs.

FISHER C.J.—I agree.

*Appeal dismissed.*

