

1928

Present: Schneider J.

In the Matter of the Transfer of C. R. Badulla 5,005 and  
5,007 to D. C. Badulla.

GOVERNMENT AGENT, UVA *v.* SUPPIAH *et al.*

*Transfer of case from Court of Requests to District Court—Land acquisition case—Claimant attends—No mention of compensation—Courts Ordinance, s. 46.*

Where, in proceedings under the Land Acquisition Ordinance, the claimant appears before the Government Agent but does not state the amount of compensation he claims, the reference must be made to the District Court.

Where an action instituted in the Court of Requests is bound to fail for want of jurisdiction, an application for its transfer to the District Court will not be allowed.

**A** PPLICATION for the transfer of the case from the Court of Requests to the District Court of Badulla. The facts appear from the judgment.

*Schokman, C.C.*, for appellant.

*H. V. Perera*, for respondent.

May 16, 1928. SCHNEIDER J.—

The plaintiff in these two actions is the Government Agent of Uva, who, dealing with certain proceedings under the Land Acquisition Ordinance, 1876, offered in case No. 5,005 a sum of Rs. 236.63 to the claimant, who refused to accept it.

It is stated by applicant's Counsel that the claimant did not mention to the Government Agent the amount he claimed as compensation. That statement is challenged by Counsel for the respondent to this application, but I will assume that the claimant did not mention the amount of compensation he wanted to be paid. In action No. 5,007 the facts are similar. The amount offered in that case by the Government Agent was Rs. 251.88. Claimants filed answer in both cases. In the former case the claimant claimed a sum of Rs. 1,250 as compensation, and in the latter case a sum of Rs. 1,000. In consequence of these answers this application is made for the transfer of the cases to the District Court of Badulla.

The defendants-respondents' Counsel is prepared to agree to a transfer provided his costs in the Court of Requests in each action are paid. I am not prepared to accept this conditional consent. I would therefore deal with the matter upon the law.

It seems to me that the plaintiff has gone to the wrong Court. Section 11 of the Land Acquisition Ordinance provides for the forum in which applications of this nature are to be tried. The

forum indicated is the District Court. There is a proviso that if the claimant fails to attend, or if the amount claimed as compensation does not exceed Rs. 300, the dispute might be referred to the Court of Requests. As I read that section, it was the duty of the Government Agent in this case to have gone to the District Court, because the claimants had appeared and had made no mention of the amount claimed as compensation. The circumstances which would have given the Court of Requests jurisdiction did not exist in these cases, and the actions, it seems to me, are bound to fail in the Court of Requests. I do not think that section 46 of the Courts Ordinance, under which the application is made, contemplated the transfer of actions which would fail for want of jurisdiction in a Court of Requests to a District Court.

I must therefore refuse these applications and leave the actions to be dealt with by the Commissioner of Requests, before whom the actions are pending. The defendants will have their posts of this application.

*Application refused.*

1928

SCHNEIDER  
J.

Government  
Agent, Uva,  
v. Suppiah