

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

CA/LAND/ACQ/05/2012

S.U.D. Perera,
No. 280/4, Old Kandy Road,
Dalugama,
Kelaniya.

Appellant-Appellant

Vs.

The Acquiring Officer,
Divisional Secretariat,
Biyagama.

Respondent - Respondent

CA/LAND/ACQ/05/2012

Before : Vijith K. Malalgoda, PC, J.(P/CA) &
A.H.M.D. Nawaz, J.

Counsel : Sanjeeva Jayawardena PC with Rajeev Amarasuriya for
the appellant instructed by Amarasuriya Associates.
Murdu Fernando PC. ASG for the AG.

Decided on : 16.12.2014

Vijith K. Malalgoda, PC, J.(P/CA)

Case is taken up for argument.

At this stage, learned Additional Solicitor General appearing for the respondents submits that the Board of Review decision has been based only on the written submissions submitted by the parties. There were no documents marked at the inquiry nor oral evidence was placed before the Tribunal before the determination. Written submissions referred to certain documents but there is no proof of the Board of Review having considered the valuations of the adjoining lands or valuation by the government valuer when coming to a conclusion.

In an appeal of this nature this Court should have the benefit of considering oral evidence including the evidence of the government valuer and that of a private valuer if parties so desire and also consider the valuation of compensation paid to adjoining lands. An adoption of

evidence will also include permitting the appellant to lead evidence as to how the neighboring land owners have been compensated in the assessment of compensation and the appellant is entitled to provide documentation in proof of the same.

The Board of Review should be mindful to the scheme of assessment of compensation contemplated by Section 45 of the Land Acquisition Act, in making a determination of the quantum of the compensation. In view of the interests of justice, this matter should be sent back to the Board of Review to comply with the provisions contained in part 3 of the Land Acquisition Act.

In the above circumstances, we decide to set aside the order of the Board of Review dated 10/07/2012 and send back the case to the Board of Review to conduct a fresh inquiry based on the guide lines we have provide above.

The Tribunal is directed to hear, determine and conclude the entirety of the appeal within a period of five months.

PRESIDENT OF THE COURT OF APPEAL

A.H.M.D. Nawaz, J.

I agree.

JUDGE OF THE COURT OF APPEAL

KRL/-