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an opportunity of adducing evidence on it, we have no alternative but to remand the case for a determination of that issue. Both parties are to be at liberty to adduce evidence on the issue thus sent down. Return should be made within three months.

Issue sent down.

R. R.

APPELLATE CIVIL.

Before Sir L. H. Jenkins, K.C.I.E., Chief Justice, and Mr. Justice Aston.

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RAGHUNATHDAS GOPALDAS AND OTHERS (ORIGINAL CLAIMANTS), APPELLANTS, v. SECRETARY OF STATE FOR INDIA IN COUNCIL AND ANOTHER (ORIGINAL DEFENDANTS), RESPONDENTS.*

City of Bombay Improvement Act (Bom. Act IV of 1898), section 48 (11)(1)—Bombay Act XIV of 1904—Acquisition of land with buildings thereon—Compensation—Net rental—Number of years purchase—Award by Tribunal of Appeal—Appeal—Cross objections—Civil Procedure Code (Act XIV of 1882), section 561.

Section 48 (11) of the City of Bombay Improvement Act (Bom. Act IV of 1898) does not provide for leave to appeal being granted to any individual but for a certificate that the case is a fit one for appeal, that is, the whole case

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* Appeal No. 110 of 1904.

(1) Section 48 (1) and (11) of the City of Bombay Improvement Act (Bom. Act IV of 1898):

48. (1) For the purposes of this Chapter (Duties and Powers of the Board of Trustees) a Tribunal of Appeal (hereinafter called "the Tribunal") shall be constituted as hereinafter mentioned to perform the functions of the Court under the said Act, and, in the construction of the said Act and the provisions of this Chapter, the Tribunal shall be deemed to be the Court, and the award of the Tribunal, or, in the event of disagreement, the award of the majority of the Tribunal, shall be deemed to be the award of the Court, and shall, subject to the provisions for appeal hereinafter contained, be final, and the President of the Tribunal shall be deemed to be the Judge.

* * * * * * * *

(11) In any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award of the Tribunal.

and not any particular part of it. The consequence of the grant of the certificate is that there shall be an appeal to the High Court from the award or any part of the award, and this must mean that there shall be a right to appeal or, to use the language of the Civil Procedure Code (Act XIV of 1882), that an appeal will lie to the High Court and the respondents will be entitled to object in the manner provided by section 561 of the Code.

Per Jenkins, C. J.:—The enquiry is essentially one where experience is of the greatest use, and in this respect the Tribunal is in a far stronger position than this Court. It has been in existence and at work now for some years, and though its members have changed from time to time, still it must have gained from the multiplicity of cases that have come before it an insight into the value of land in Bombay, which we do not possess, and an experience which must make this Court slow to interfere with its adjudication on a question of value, involving no legal principle, in the absence of evident error. And all the more must this be so when regard is had to the constitution of the Tribunal.

APPEAL under section 48 (11) of the City of Bombay Improvement Act (Bom. Act IV of 1898) against the decision of the Tribunal of Appeal composed of C. P. R. Young, President, R. J. Kent, Government Assessor, and W. A. Chambers, Municipal Assessor, appointed under section 48 (3) of the said Act.

Certain land situate at Bombay and consisting of 259 square yards with two buildings standing thereon having been acquired by the Trustees for the Improvement of the City of Bombay, the Special Collector appointed under section 3 (*c*) of the Land Acquisition Act (I of 1894) awarded to the claimants—owners of the property—Rs. 1,51,937-8-11 by way of compensation for the land and the buildings. The claimants being dissatisfied with the award, the Special Collector made a reference, No. 34 of 1903, to the Tribunal of Appeal which varied the award by increasing the amount thereof to Rs. 1,69,086·70 according to the following particulars:—

The total compensation for the property will, therefore, be Rs. 1,69,086·70 including therein the sum of Rs. 7,070·8 awarded to the claimants by the Special Collector under section 23 (6) of the Land Acquisition Act.

The officer awarded Rs. 1,51,937·50 and his award must, therefore, be increased by the sum of Rs. 17,049·20 which sum must be paid to the Tribunal for payment to the claimants with interest thereon at 6 per cent. per annum from the date on which possession was taken until payment to the Tribunal and Government must pay the taxed costs of this reference.

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			Rs.
Rents of existing buildings Rs. 750-8-0 × 12⅓ months =			9,256·00
Less—			
		Rs.	
Taxes at 14·76 per cent. on Rs. 9,256 ...	...	1,366·19	
Vacancies, &c., at 1 per cent. on Rs. 9,256 ...	...	92·56	
Repairs at 1 per cent. on 9/10ths of Rs. 9,530	...	85·77	
Sinking fund at 0·35 per cent. on Rs. 9,530	...	33·36	
Insurance at $\frac{3}{16}$ per cent. on 9/10ths of (9,530 — 2,820) Rs. 6,710	...	11·32	
Government dues (redeemed)	...	00·00	
Total outgoings ...	...		1,589·20
Net annual return ...	...		7,666·80
Years' purchase ...	...		21·50
Capital value ...	...		1,64,836·20
Deduct—			
Depreciation	...		2,820·00
Compensation to owners of property ...	...		1,62,016·20
Compensation to owners for diminution of profits under section 23 (6) of the Land Acquisition Act as found by the Collector	...		7,070·50
Total Compensation to owners ...	...		1,69,086·70

Against the decision of the Tribunal the claimants having raised objections, the President of the Tribunal granted them a certificate to appeal to the High Court under section 48 (11) of the City of Bombay Improvement Act (IV of 1898). The certificate was in the following terms:—

I hereby certify that the above award is a fit one for an appeal to the High Court under section 48 (11) of the City of Bombay Improvement Act, 1898, on the grounds accompanying the petition of Messrs Wadia, Ghandy and Co., Attorneys for the claimants herein, copy of which is hereto annexed.

Tribunal of Appeal, Bombay, dated 12th October 1904. (Signed) C. YOUNG, President, Tribunal of Appeal.

The claimants, thereupon, appealed urging that the Tribunal was wrong in deducting 4 per cent. from the rentals in respect of water tax for the claimants' property, that it should have made the deduction in respect of the water tax upon the basis

of the average amount of water which was actually consumed as recorded by the meters provided for the purpose under the provisions of the Bombay Municipal Act, 1888, that it failed to appreciate the fact that the rents of the claimants' property had been steadily rising for sixteen years previous to 1899 and erred in not considering that rents in the neighbourhood were still rising and that the claimants' property was capable of fetching a higher rent than that paid in 1898, that it should have capitalized rents at 30 and not at 21½ years' purchase, that it was wrong in holding that the average of the instances of which evidence was given before it worked out at 21½ years' purchase, that it should have held that the claimants' properties were capable of being further developed and was wrong in holding that they were not capable of being further developed, and that it erred in holding that if the property had been further developed there would have been no demand for it.

Respondent (original defendant 2, City of Bombay Improvement Trust, a corporation created by the City of Bombay Improvement Act IV of 1898) preferred cross-objections under section 561 of the Civil Procedure Code (Act XIV of 1882), contending *inter alia* that the Tribunal erred in making a deduction of 1 per cent. only for vacancies, collection and bad debts in the case of the claimants' property, whereas such deduction should have been made at 3 per cent. at least as admitted by the claimants' own Surveyor Mr. John Morris, and that it erred in allowing for insurance only upon nine-tenths of the present value of the claimants' building, whereas the same ought to have been calculated upon nine-tenths of the original value or costs thereof.

Inverarity (with *Wadia, Ghandhi and Co.*) appeared for the appellants (original claimants).

Raikes (Acting Advocate General) and *Lowndes* with Government Solicitor appeared for respondent 1 (original defendant 1, Secretary of State for India in Council).

Crawford, Brown and Co. appeared for respondent 2 (original defendant 2, City of Bombay Improvement Trust).

JENKINS, C. J.:—The Tribunal of Appeal, constituted by the City of Bombay Improvement Act, 1898, has awarded to the appellants, who were claimants before it, Rs. 1,69,086·70 with

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interest at 6 per cent. per annum on the sum of Rs. 17,049·20, being the difference between the sum awarded by the Special Collector and that to which the Tribunal held the claimants entitled, and also the costs of the reference. From this decision the present appeal is preferred.

The particulars of this sum of Rs. 1,69,086·70 appear in the tabular statement at the end of the Tribunal's judgment, and the appellants' complaint is that three errors have been made. First, it is said that the amount deducted for water tax is too great; secondly, that the annual return is underestimated; and thirdly, that too few years' purchase has been allowed.

In the first place it is necessary to see what the enquiry is, on which we are engaged.

Land with the buildings erected thereon, belonging to the appellants, has been acquired by the City of Bombay Improvement Trust, and the purpose of the present proceedings is to ascertain the compensation which should be allowed for the premises.

In determining the amount of compensation the Court has to take into consideration (among other things) the market value of the land at the date of the publication of the declaration relating thereto (section 23, Land Acquisition Act), and it is with this market value alone that we are concerned.

As this is the first effective appeal from the Tribunal we have been invited to lay down general principles for its guidance: but I must decline to ignore the salutary rule that we should not travel beyond the facts of the particular case. It is common ground that in this case rental should be the basis of calculation, so that after arriving at the net rental, what has to be ascertained is the rate of return investors in this class of property expect; for that will determine the number of years' purchase it is proper to allow, after giving due weight to any special conditions that may affect the property, advantageously or otherwise.

It is then obvious that the enquiry is essentially one where experience is of the greatest use, and in this respect the Tribunal is in a far stronger position than this Court. It has been in existence and at work now for some years, and though its

members have changed from time to time, still it must have gained from the multiplicity of cases that have come before it an insight into the value of land in Bombay, which we do not possess, and an experience which must make this Court slow to interfere with its adjudication on a question of value, involving no legal principle, in the absence of evident error. And all the more must this be so when regard is had to the constitution of the Tribunal.

Though the Act provides that its President should possess certain legal qualifications and the present holder of the post is a gentleman well known as a careful lawyer, whose conduct of the Tribunal business has won approbation, still it cannot be regarded as a Tribunal possessing only legal qualifications, for associated with the President are two gentlemen obviously selected on the ground of their fitness to deal with questions of land valuation, one of whom, at any rate, has had considerable professional experience in such matters in the City of Bombay.

To proceed then to the facts of this case, there is no dispute as to the actual annual gross rental: both sides are agreed that it is Rs. 9,256.

But the appellants object that their property was at the date of the declaration capable of fetching a higher rental, and in support of this they point to the fact that the rents of their property had been steadily rising for 16 years previous to 1899.

A table of the successive rises in rent has been placed before us according to which the rent was Rs. 327 in 1882-83, Rs. 452 in 1886-87, Rs. 544 in 1889-90, Rs. 620 in 1893-94, Rs. 645 in 1896-97, and Rs. 750-8 in 1898-99.

From this, it is argued, it is apparent that the premises have yielded 12 per cent. increase of rent every 3 or 4 years: therefore in 1901 there would have been an increase to Rs. 840-8, and this was only prevented by the Trust's notice, Ex. PP, given on the 10th of January 1899.

This rise in the past is admitted by the Trust but it is denied that the rents were capable of further enhancement.

In support of their view the appellants have adduced evidence to show that rents in the locality have been rising.

Jugjivandas speaks to an enhancement of rents by Cooverbai after her purchase from Rs. 69 to Rs. 99.

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Munmohandas Narrotumdas, the manager of the late Sir Mangaldas Nathubhoy's estate, speaks to an increase of 25 per cent. in the rent of outside shops of the Mangaldas Nathubhoy's market facing the road.

Chaturbhuj Hurjiwan, whose premises are next to those in question, deposes that the Trust raised the rent of his house from Rs. 325 to Rs. 351. On the other hand this witness says that before the Trust took possession he had got his landlord to take off Rs. 25 from Rs. 351, which he had paid for 5 years before, on the ground that it was too high, and he expresses the opinion that rents were going down at that time.

Though for the purpose of this inquiry it is legitimate to have regard to the past history of the rental, it cannot be taken for granted that enhancement will continue possible for ever, and still less that there is such a certainty of this as to make it a basis for fixing a higher purchase price.

Both the Collector and the Tribunal are agreed that "the rentals had reached their zenith", and can it be said that they are wrong?

The appellants in support of their view rely on Mr. Narsinham, a surveyor called by them. The evidence does not disclose his qualifications, but whatever they may be, the Collector and the Tribunal did not accept his conclusion. Nor can we find that it had any other basis than what had taken place in the past.

His view is not confirmed by the other experts called by the claimants, and Mr. Stevens, one of those experts, says in respect to Mr. Narsinham's figures, "I am not prepared to justify his increase." The evidence as to the adjoining properties did not convince the Tribunal that the rental of the claimants could be further increased, and after a careful consideration of all the evidence and the arguments addressed to us we see no reason to disturb the Tribunal's conclusion on this point.

The next of the claimants' points is the objection that too much has been deducted in respect of water-tax.

The excess is said to consist in estimating the water-tax at 4 per cent., whereas the water-supply to the premises is measured by meter and the average payment for water is Rs. 16 per annum.

The amount of water-tax is regulated by the City of Bombay Municipal Act, 1888, and the 140th section of that Act provides that a water-tax of so many per centum of their rateable value as the Corporation shall deem reasonable with reference to the expenses of providing a water-supply for the City shall be levied on buildings and lands in the City. The amount at present levied is 4 per cent.

But section 169 (*a*) provides that the Commissioner may, in such cases as the Standing Committee shall either generally or specially direct, instead of levying the water-tax in respect of any premises liable thereto under section 141, charge for the water supplied to such premises by measurement at such rate as shall from time to time be prescribed by the Committee in this behalf. This system has been adopted in the premises now under consideration.

The Special Collector made a deduction on the 4 per cent. basis and this has been adopted by the Tribunal of Appeal, as they "think a purchaser would buy with the thought that the full 4 per cent. might be deducted and that the Collector was right."

The appellants contend that there is no foundation for the Tribunal's assumption, and that in practice a purchaser does not look beyond the actual outgoings.

It lies on the Trust to establish the propriety of any deductions they seek to have made from the gross rental, and I must admit that, had it not been for the evidence of the claimants' own witness, I should have inclined to the view that too high a deduction had been made.

But I feel that this is essentially a point not to be determined by *a priori* considerations, and when we find Mr. Morris, an experienced surveyor and valuer, called by the claimants saying, "In advising a purchaser I would deduct the full amount which the Municipality are entitled to charge under their Act even though the last bill, or the previous bills have been for small amounts," and Mr. Stevens deposing "From the point of view of the purchaser I should advise him to deduct the full amount that the Commissioner could charge," we are unable to

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say the Tribunal erred in following the Collector and deducting 4 per cent. from the rentals in respect of water-tax.

The only remaining question on the appeal is the numbers of years purchase that should be allowed.

The Collector on the basis of a hypothetical building producing a gross monthly rental of Rs. 781 and a net annual return of Rs. 7,616-15 thought 20 years' purchase was sufficient.

The Tribunal, on the basis of an actual gross monthly rental of Rs. 750-8 and a net annual return of Rs. 7,666·80, has allowed the appellants 21·50 years' purchase. The appellants however on the basis of a higher net annual return ask for 30 years' purchase.

Mr. Inverarity has argued that as the buildings are worth hardly anything, the present rent is practically a ground-rent, with the advantage that it is capable of enhancement, and claims that the redemption of pension and tax at 30 years' purchase furnishes us with a reliable guide to the solution of this question.

But beyond this he maintains that he has adduced several instances of sales in the neighbourhood of properties not so favourably circumstanced as the appellants,' which show results that support his contention. I will examine these instances.

The first is the sale of No. 476, Shaik Memon Street, for Rs. 18,700 on the 3rd August 1901.

The property belonged to Kalidas Mansukhlal, who deposes to the sale by him to Kesavlal Ambaram, and states that the gross monthly rent at that time was Rs. 69-8-0.

The witness did not produce any books or documents to confirm his statement as to the rent, but though the Tribunal alludes to this it does not appear that it did not believe this witness, for it accepts his statement of "the then existent rentals," but explains away their significance by the conclusion that the property was not bought upon the basis of those rentals, but "of rentals which have not been given." I infer that the Tribunal discarded this instance, because it considered that the rents at the time of the sale were low, and that it had not before it the true rental value. But the evidence is that the rent paid to the purchaser is Rs. 81 per mensem and what his tenant gets is immaterial, for what we are concerned with is the return in the

form of income that a purchaser expects, and here the purchaser is satisfied with a monthly return of Rs. 81. The chief difficulty in the case is that we have no materials for forming a definite conclusion as to how much must be deducted from the Rs. 81 before we get the net monthly return, for neither the purchaser nor the contractor was called. If no deduction is to be made, then, we are told, the purchase would work out at 18·7 years' purchase: if 20 per cent. be deducted, then at 23·37 years' purchase.

It is pointed out that the sale was to the mortgagee and that of the Rs. 18,700 only Rs. 400 was paid in cash, and it is suggested that the mortgagee may for some special reason have considered it worth his while to buy the property at Rs. 400 extra and so escape litigation. But here we are in the region of speculation.

All that can be said is that the instance must be borne in mind and weighed, making all allowances for the uncertainty to which we have alluded.

The second instance is the sale of Nos. 420—422, Shaik Memon Street, on the 21st August 1900 for Rs. 28,525.

The property belonged to Chotalal Harlochand, who deposes to the sale by him to Jeevanchand Dharamchand and states that the gross monthly rent at that time was Rs. 107.

The Tribunal has come to the conclusion that the property was underlet, and that it was bought for residence and development, and not upon the basis of the rentals. I think there is justification in the facts for this view, and that it cannot be said the Tribunal was wrong in its conclusion that the instance is "unsafe to be relied on."

The 3rd instance is the sale of Nos. 297—299, Shaik Memon Street, on the 11th February 1902 for Rs. 28,751.

The property belonged to Purshotum Ramji, who deposes to the sale by him, but here we have no rental as a guide as the property had been unlet for 15 years. And though we know the assessment, I agree that this cannot be regarded as a safe guide in the present enquiry.

The appellants do not suggest that the assessment can be taken as though it were the rental: if it were, the result would

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work out at 39 years' purchase, and this would be an absurdity (see Stevens' evidence).

Here then we again are met with the difficulty that we have no certain data on which to proceed.

The 4th instance is the sale of No. 484, Shaik Memon Street, on the 3rd of January 1901 for Rs. 18,000 to Bai Cooverbai, whose Mehta at that time Jugjiwan Hurjiwan deposes to the sale, and states that the gross rental was Rs. 69. The rents were raised to Rs. 90 within seven and a half months after the sale, and if, as may be fairly urged, this enhancement was within the purchaser's contemplation, it shows that he looked forward to an investment of over 5 per cent. and this represents less than 20 years' purchase.

The 5th instance is the sale of Nos. 259—261, Shaik Memon Street, on the 10th of July 1903 for Rs. 32,251. Evidence of this sale was given before the Special Collector by Heerabhai Ghellabhai and his Moonim, Nerbudda Shunker Dirajram. The gross monthly rental at the time of the sale was Rs. 150 odd. But though the purchaser says he "fixed this price having regard to the rents then derived from this property calculating upon a net 4 per cent. return," we find that immediately after he bought the house he gave notice of increase of rent.

The 6th instance is the sale of a moiety of Nos. 318—320, Shaik Memon Street, on the 1st of March 1902 for Rs. 14,000.

The Special Collector did not regard this as a case to be relied on, but I can find no indication that, as the Tribunal suppose, he "held the instance suspicious."

His idea seems to have been that as it was a purchase by one brother from another of the latter's share in their joint property at a valuation carried out in the manner described in the evidence, it was not a safe clue to the market value of the property. I think there is considerable force in the Collector's comment and the Tribunal certainly has not erred in favour of the Trust in taking this as a sale at 25·54 years' purchase.

The seventh instance is a sale of Nos. 283-285, Shaik Memon Street, on the 19th December 1902 for Rs. 72,000.

The sale was by Bhanji Vithal whose Moonim, Damodurdas Bapoobhoy, states that the rental was Rs. 323-8 and this is

accepted by the Tribunal as an instance of a sale at 24·7 years' purchase.

The two remaining instances are the sales of the Mangaldas Market and the Cutlery Bazar, and of these the first is discarded by the Tribunal for reasons which appear to be sound, and the second is taken at 19·18 years' purchase.

The Tribunal then, on a consideration of all the evidence and taking an average of the instances adduced before them, came to the conclusion that they "were not prepared to give any more for the property than the average thus found" and so allowed the claimants 21½ years' purchase.

This striking of an average as done by the Tribunal may be a crude method of calculation, and it may be that the first instance should not have been discarded, but I cannot say that the claimants have been awarded too little.

This average is but one of the factors in the case.

Mr. Morris, the claimants' own witness, who probably would not err on the side of under-estimation, at first valued the property at 22-23 years' purchase; though he subsequently raised it to 24 years' purchase. While Mr. Stevens, another of the claimants' witnesses, very candidly admitted that before this he had been in favour of treating ordinary house property as a six per cent. investment.

Then we have been told, and it has not been denied, that the price fixed by the Tribunal works out at Rs. 600 per square yard, and that, it is said, is the highest price ever realized and may be fairly looked at as a check.

Mr. Inverarity has referred to *The Secretary of State for India in Council* v. *Shanmugaraya Mudaliar*[1], where 25 years' purchase was allowed in respect of a quarry as supporting his contention; but I do not think the decision really helps the claimants, and what it appears to establish is the reluctance of their Lordships on appeal to depart from the opinion of the first Court, and, thus read, it lends sanction to the general remarks with which I commenced my judgment.

This brings us to the Trust's cross-objections of which two have been urged before us: first, that the Tribunal erred (*a*) in

(1) (1893) 16 Mad. 369.

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making a deduction of 1 per cent. only for vacancies, collections and bad debts; and (*b*) in allowing for insurance only upon the nine-tenths of the present value of the claimants' buildings, whereas the same ought to have been calculated upon nine-tenths of the original value or cost thereof.

The first point for our consideration is whether they can be entertained.

It is urged that they cannot, because no leave has been granted by the President of the Tribunal, which permits of their being filed.

Section 48 (11) of the City of Bombay Improvement Act, 1898, provides that in any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award or any part of the award.

This provision has been validated by Act XIV of 1904, which provides:

"1. The City of Bombay Improvement Act, 1898, shall, so far as regards the appellate jurisdiction conferred upon the High Court by section 48, sub-section (11), thereof, be as valid as if it had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

"2. Subject to the provisions of section 48, sub-section (11), of the said Act, the provisions of the Code of Civil Procedure with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under that sub-section, and orders passed therein by the High Court may, on application to the Chief Judge of the Small Cause Court be executed by him as if they were decrees made by himself.

"3. An appeal to the High Court under section 48, sub-section (11), of the said Act, shall for the purposes of No. 156 of the Second Schedule to the Indian Limitation Act, 1877, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that Schedule."

Section 561 of the Civil Procedure Code provides:-

"Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow."

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A certificate has been granted by the President on the application of the claimants in these words:—

"I hereby certify that the above award is a fit one for an appeal to the High Court under section 48 (11) of the City of Bombay Improvement Act of 1898 on the grounds accompanying the petition of Messrs. Wadia, Ghandy & Co., attorneys for the claimants herein, a copy of which is hereto annexed."

The section simply enacts that the President may grant *a certificate that the case is a fit one for appeal,* and why the certificate does not follow those words I do not know. However it has not been suggested that the certificate is not within section 48 (11), and I will deal with the question on the assumption that it is.

The sub-section does not provide for leave to appeal being granted to any individual, but for a certificate *that the case is a fit one for appeal,* that is, the whole case, and not any particular part of it. The consequence of the grant of this certificate is that *there shall be an appeal* to the High Court from the award or any part of the award, and this must mean that there shall be a right of appeal, or, to use the language of the Civil Procedure Code, that an appeal will lie to the High Court.

The grant of the certificate, therefore, entitled the Improvement Trustees as well as the claimants to appeal from the award or any part of the award, for the case was determined to be a fit one for appeal, and it, therefore, follows that the Improvement Trustees as respondents are entitled to object in manner provided by section 561 of the Civil Procedure Code.

I suggest that in future certificates should follow the words of the section.

But I am clearly of opinion that on the materials at present before us we ought not on the cross-objections to interfere with the determination of the Tribunal on either of the points we have specified. They both involve matters of detail on which the Tribunal is not shown to have erred. The result, therefore, is that we confirm the award, and direct the costs of the appeal to be borne by the appellants and those of the cross-objections by the Improvement Trustees. One set of costs as between the respondents.

G. B. R. *Award confirmed.*