
Karuna Sindhu Dhar and Another Vs Panna Lal Paramanik and Another

Appeals from Original Decree No"s. 121 and 122 of 1954

Court: Calcutta High Court

Date of Decision: Jan. 21, 1960

Acts Referred:

Land Acquisition Act, 1894 " Section 18, 20, 21, 30

Citation: 65 CWN 802

Hon'ble Judges: Renupada Mukherjee, J; K.C. Sen, J

Bench: Division Bench

Advocate: Manindra Nath Ghosh and Ganapati Chunder, for the Appellant; Jitendra Nath Guha and Naresh Nath Banerjee, for the Respondent

Final Decision: Allowed

Judgement

Renupada Mukherjee, J.

These two appeals have arisen out of an order passed by the learned District Judge of Howrah in connection

with two land acquisition cases. It would appear from the judgment of the learned Judge that the Land Acquisition Collector of Howrah made

some awards in two land acquisition cases, namely, L.A. ase No.2/2 of 1944-45 and L.A. Case No.2/3 of 1994-45 in favour of four persons

jointly. These four persons were Karuna Sindhu Dhar, Anantalal Chunder, Pannalal Paramanik and Rajmohan Mukherjee. The awards do not

make any mention about the shares of the parties and so the normal result would be that each of the above-mentioned four persons would be

entitled to get the award monies to the extent of one-fourth share. Karuna Sindhu and Anantalal were not satisfied with the awards and they

applied to the Collector for making a reference u/s 18 of the Land Acquisition Act. Their case was that they were entitled to ge the award amounts

in their entirety and the other two awardees were not entitled to get anything. It is admitted that Pannalal and Rajmohan did not raise any objection

to the award before the Collector. Evidently they accepted the awards made by the Land Acquisition Collector. They, however, entered

appearance before the learned Land Acquisition Judge and contested the claim of the claimants. Their case before the learned Judge was that

Rajmohan alone was entitled to receive the entire amounts of the awards. Evidence was adduced by the rival claimants before the Land Acquisition

Judge and he came to the conclusion that the two claimants of the two cases had no title to the award amounts and Rajmohan Mukherjee was alone

entitled to receive the amounts. In view of this finding the miscellaneous cases which arose out of the two references were dismissed by the learned

Judge and he gave a further direction that the award monies would be paid to Rajmohan Mukherjee alone and not to the three other awardees.

2. These two appeals were filed by the claimants of the Court below. As they arose out of connected matters they were heard analogously and

they were disposed of by one judgment.

3. Mr. Ghosh who argued these appeals on behalf of the appellants submitted before us that he is not in a position to challenge that portion of the

judgment of the Land Acquisition Judge in which the respective titles of the parties to the properties which were the subject matter of acquisition

have been discussed. He however, contended that it was not open to the learned Land Acquisition Judge to make a declaration that Rajmohan

Mukherjee alone was entitled to receive the entire compensation money of the awards inasmuch as he had accepted the awards as made by the

Collector and no reference u/s 18 of the Land Acquisition Act was made by the Collector at his instance. Mr. Ghosh further submitted that in

making the joint awards in the names of four persons the Collector had virtually given a moiety share of the award amounts to the two claimants.

By asking for a reference to the Land Acquisition Judge and by claiming the entire compensation amounts, the two claimants, who are appellants in

this appeal, were merely claiming something in excess of what had been given to them by the Collector. Mr. Ghosh submitted that this excess claim

of the appellants might have failed before the Land Acquisition Judge, but that failure would not entitle Rajmohan to get anything in excess of what

had been given to him by the awards in the absence of a reference at his instance.

4. In support of the above proposition of law Mr. Ghosh relied on certain previous decisions of this Court. One such case is reported in Gobinda

Kumar Roy Chowdhury and Others Vs. Debendra Kumar Roy Chowdhury and Others . It has been held in that case that in a reference u/s 18 of

the Land Acquisition Act, it is not open to the Special Judge to enter into question raised by parties who did not object to the award and apply for

a reference. In another case which is reported in (2) ILR 34 Cal, 451 (Abu Bakar v. Peary Mohan Mukherjee), it has been held that the under

Sections 18, 20 and 21 of the Land Acquisition Act, all that the Court can deal with is the objection which has been referred to it; he cannot go

into a question raised for the first time by a party who had not referred any question or any objection to it u/s 18 of the Land Acquisition Act. The

cases reported in (3) 38 CLJ 265 (Maharaja Sasi Kanta Acharyya Bahadur v. Abdur Rahman Sarkar and others) and (4) 23 CWN 720. (The

Secretary of State for India in Council v. Manohar Mukherjee and Ors.) are authorities for the proposition that a party who has accepted an

award and has not applied for a reference u/s 18 of the Land Acquisition Act is not entitled to a share of any compensation money which may be

allowed in excess of the award amount by the Land Acquisition Judge on a reference by any other party. The question of law involved in the

present appeals appears to us to be covered by the above decisions. By the awards out of which these proceedings have arisen the Collector had

given a half share of the compensation monies to the two appellants. It is true that by applying for a reference the appellants wanted the other half

of the compensation monies. That claim of theirs failed before the learned Land Acquisition Judge. Such a failure would not be a ground to give the

half share of the appellants in the compensation monies awarded by the Collector to Raj Mohan, who never asked for it.

5. Mr. Guha who argued the appeal on behalf of the respondents submitted before us that the reference made by the Collector to the Land

Acquisition Judge involved only one question, namely, who was entitled to get the entire compensation money and that being the scope of the

reference the learned Land Acquisition Judge acted within his jurisdiction in making a declaration that Raj Mohan Mukherjee was alone entitled to

get the compensation monies in their entirety.

6. We do not agree with Mr. Guha that the above was the scope of the reference, as we have already indicated, was whether the appellants were

entitled to get the additional half share of the compensation amounts besides the half share given to them by the awards. In this connection Mr.

Guha drew our attention to a case reported in (5) 29 CWN 340 (Surendra Nath Tagore v. K.S. Bonnerjee and Ors.). That case may, at best, be

an authority for the proposition that there may be a reference of the claim of a particular claimant u/s 30 of the Land Acquisition Act although he

may not formally apply before the Collector for a reference. In that case the claimant who put forth his claim before the Land Acquisition Judge,

had also put forth his claim before the Collector and in the letter of reference which was drawn up at the instance of another party, the claim of that

person was also mentioned. It was, therefore, held by the learned Judges that mention of the claim of such a person who may not formally apply

for a reference u/s 18 of the Land Acquisition Act amounts to a reference u/s 30. In the particular cases with which we are dealing, Raj Mohan

Mukherjee never claimed the entire compensation monies before the Collector and the letters of reference do not indicate that such was his claim.

That being the case, the learned Land Acquisition Judge was not entitled to vary the awards by a declaration that Raj Mohan Mukherjee was

entitled to get the entire compensation monies.

7. Mr. Guha also drew our attention to a case reported in (6) Manjur Ahmed and on his death his heirs and legal representatives, Akhtari Bibi and

Others Vs. Rajlakshmi Dassi and Others, , (Manjur Ahmed and on his death his heirs and legal representative, Akhtari Bibi and others v.

Rajlakshmi Dassi and others). We have gone through the entire case but we do not find anything therein which supports the contention advanced

on behalf of the respondents by Mr. Guha. In our opinion Raj Mohan having accepted the award and not having raised any objection to the same

upto the time of the making of the reference by the Collector, the learned Land Acquisition Judge should not have made a declaration that he alone

is entitled to receive the entire amounts of the awards.

8. In the result, we allow these two appeals in part. The decrees passed by the learned Judge of the Court below by which the two miscellaneous

cases were dismissed are affirmed that the decrees are set aside to the extent they contain the declaration that Raj Mohan Mukherjee will be paid

the entire award-amounts of L.A. Case No.2/2 of 1944-45 and L.A. Case No.2/3 of 1994-45.

9. In view of the circumstances of the case we direct that parties will bear their own costs in these two appeals.

K.C. Sen, J.

10. I agree.