
(1910) 03 CAL CK 0055

Calcutta High Court

Case No: None

Tringani Dasi

APPELLANT

Vs

Krishna Lal Dey and Others

RESPONDENT

Date of Decision: March 30, 1910

Acts Referred:

- Land Acquisition Act, 1894 - Section 32, 54

Citation: 6 Ind. Cas. 157

Hon'ble Judges: Teunon, J; Mookerjee, J

Bench: Division Bench

Judgement

1. We are invited in this Rule to set aside an order made by the Court below u/s 32 of the Land Acquisition Act. The learned Counsel who appears to show cause has argued that the Rule ought to be discharged inasmuch as the order is appealable u/s 54 Of the Land Acquisition Act, with the result "that it is not competent to this Court to interfere in the exercise of its revisional jurisdiction tinder Section 115 of the Code of 1908. In support of this contention reliance has been placed upon the cases of Nabin Kali Debi v. Banalata Debi 32 C. 921 : 2 C.L.J. 595; Muhammed Ali Raja Avergal v. Ahammed Ali Raja Avergal 26 M. 287; Shiva Rao v. Nagappa 29 M. 117 and Sheo Rattan Rai v. Mohri 21 A. 354.

2. The answer to the question raised turns upon the construction of Section 54 of the Land Acquisition Act, which provides that, subject to the provisions of the CPC applicable to appeals from original decrees, an appeal shall lie to the High. Court from the award or from any part of the award of the Court in any proceeding under the Act. The learned Vakil for the petitioner has contended that an order u/s 32, by which the Court directs that the sum awarded as compensation is to be invested in Government securities, is not an award or part of an award made in any proceeding under the Act. In support of this view, he has referred to Sections 11, 18 and 26, and has argued that they set forth exhaustively the circumstances under which an award may be made. In our opinion, there is no force in this contention. The term award is

not defined in the Act, and if the contention of the learned Vakil for the petitioner were accepted as well-founded, an award would be restricted to a decision by the Court upon the question of valuation of the land acquired under the Act. It has, however, been ruled by this Court in the case of Bala-ram Bhramaratar Ray v. Sham Sunder Narendra 23 C, 526, that a decision u/s 30 of the Act in cases of dispute as to apportionment of the compensation awarded, is part of an award within the meaning of Section 54 of the Act. It follows consequently that a decision by the Court u/s 32 as to the disposal of the sum awarded as compensation either to the sole claimant u/s 26 or to any one of several contesting claimants u/s 30, is equally a part of the award. In fact, an order u/s 32 follows as a necessary consequence of the award made under either Section 26 or Section 30 in cases where any question arises as to the power of the person to whom a sum has been awarded to alienate the property acquired. Consequently an order u/s 32 may appropriately be deemed as an integral part of the award made by the Court. The view we take is supported by the decision of the Madras High Court in the case of Shiva Rao v. Nagappa 29 M. 117, and the observations of this Court in the case of Nabin Kali Debi v. Banalata Debi 32 C. 921 : 2 C.L.J. 595, point to the same conclusion. The two other cases upon which reliance has been placed by the learned Counsel for the opposite party also support the same view to some extent.

3. The result, therefore, is that this Rule must be discharged on the ground that the order which is called in question is appealable u/s 54 of the Land Acquisition Act.

4. We may add that the learned Vakil for the petitioner has informed us that he anticipated the objection and that appeals have already been filed in view of the possible doubt as to the precise nature of the jurisdiction, appellate or revisional, exercisable by this Court. He has asked for an order that the hearing of these appeals may be expedited. We direct that this be done and that the appellant be at liberty to prepare the paper book out of Court. As soon as the paper book is ready, the matter may be mentioned and an early date fixed for the disposal of the appeals. We make no order as to costs.

5. This order, it is conceded, will govern Rule No. 118 of 1910 which is also discharged without costs.