

**(1910) 01 CAL CK 0042****Calcutta High Court****Case No:** None

Tulshi Makhania

APPELLANT

Vs

Secretary of State for India in  
Council

RESPONDENT

**Date of Decision:** Jan. 28, 1910**Citation:** 6 Ind. Cas. 543**Hon'ble Judges:** Holmwood, J; Chatterjee, J**Bench:** Division Bench**Judgement**

1. These are two appeals from orders of the District Judge of Patna in References under the Land Acquisition Act. In the case of Musammat Ramia her claim was that she should get Rs. 1,280 instead of the sum of Rs. 567 awarded to her by the Collector. The learned District Judge finding that the only principle on which he could go on the evidence before him was the rental at so many years" purchase, determined on the basis of the Municipal assessment, took that basis at fifteen years" purchase and awarded Rs. 776-4 in all. We agree with the learned Judge that the only basis upon which compensation can be assessed in this case is on the basis of the Municipal assessment; but we can see no reason why the principles laid down in the unreported case of the Secretary of State v. Baij Nath Goenka 12 C.W.N. cc, which refer to a Municipality in a very similar position to the one in Patna, should not be followed. In that case it was laid down that from the Municipal assessment on the whole area, one-sixth should be deducted for road-cess and other costs, that taxes and ground rents should also be deducted and that the balance should be estimated at 20 years" purchase. Working out this case on that footing we find that Rs. 722-1 plus Rs. 107-8 for the 15 per cent, compensation amounts to Rs. 830 altogether. We accordingly modify the District Judge"s order to that extent and direct that the appellant do receive the sum of Rs. 830.
2. Adopting the same principle in the case of Tulshi Makhaiia we find that instead of Rs. 388-7 awarded to him by the learned District Judge, he is entitled to the sum of

Rs. 417.

2. We accordingly modify the order of the District Judge to that extent and decree these appeals with costs to which the appellants are entitled. The modifications being very small we assess the hearing fee at one gold mohur in both the appeals.