

(1960) 01 CAL CK 0039

Calcutta High Court

Case No: Civil Rule No. 659 of 1958

Patubala Dasi

APPELLANT

Vs

Land Acquisition Collector of
Burdwan and Others

RESPONDENT

Date of Decision: Jan. 15, 1960

Acts Referred:

- Land Acquisition Act, 1894 - Section 12, 18

Citation: 65 CWN 1038

Hon'ble Judges: Mitter, J

Bench: Single Bench

Advocate: Bon Behari Sarkar, for the Appellant; N.C. Chakrabarti, Government Pleader and S.K. Rai Chowdhury, for the Respondent

Judgement

Mitter, J.

This Rule is directed against an order of the Land Acquisition Collector, Burdwan, dated September 16, 1957, whereby an award in the petitioner's favour for Rs. 2979/77 nP. was sought to be amended so as to reduce the amount of compensation to Rs. 590/49 nP. only. This amendment was, in fact, effected behind the back of the petitioner. Being aggrieved by the reduction, the petitioner applied u/s 18 of the Land Acquisition Act and asked for a reference as to the quantum of compensation. Thereafter she moved this Court and obtained the present Rule. That the Land Acquisition Collector had no power to amend the original award to the prejudice of the petitioner without notice to her and without giving her an opportunity of being heard cannot be doubted. As I have said before, the original award was amended behind the back of the petitioner and to her prejudice. On this ground alone, the order of September 16, 1957 can be set aside or quashed. There is, however, an additional ground, viz.. the absence of any power in the Land Acquisition Collector to amend his award after it has been filed u/s 12 of the Act. If any authority were needed, I would refer to Province of 43 CWN 1185 .

2. Mr. N. C. Chakrabarti, learned Government Pleader, has contended that in view of the reference u/s 18 of the Act, this Court should not exercise its discretion in favour of the petitioner. The reference u/s 18 is in respect of the pretended award which, in my view, was no award. Section 18 is concerned with an award which was validly made. Therefore, the subsistence of a reference u/s 18 cannot preclude the petitioner from obtaining a proper relief in these proceedings. In my view, the order of September 16, 1957 was without jurisdiction and must be quashed. I direct accordingly. The Rule is made absolute. In view of the attitude taken up by the State, I feel constrained to award the petitioner the costs of this application, hearing fee being assessed at 5 G.Ms.