

(1997) 02 MP CK 0038
In the Madhya Pradesh High Court
Case No : C.R. No. 207 of 1997 (J)

Krishi Upaj Madi Samiti Betul

APPELLANT

Vs

Kishore

RESPONDENT

Date of Decision : 27-02-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151, 2(2)
Land Acquisition Act, 1894 — Section 26, 26(2)

Citation : (1998) 1 MPJR 362

Hon'ble Judges : P.N.S. Chauhan, J

Bench : Single Bench

Advocate : M.A. Khan, for the Appellant; Ravindra Shrivastava, for the Respondent

Judgement

D.P.S. Chauhan, J.

Heard the learned counsel for the applicant and the learned counsel for the respondents.

The land was acquired for the purpose of the present applicant-Krishi Upaj Mandi Samiti Betul, which belonged to the respondents No. 1 to 5 in the present case. Against the Award given by the Arbitratory, an application was moved to the Collector u/s 18 for making reference to the Civil Court. Reference was made to the Civil Court in regard to the determination of the adequacy of the compensation. The Civil Court gave Award on 8.1.96 in Arbitration Reference No. 9/95 registered as MJC No. 9/95 where against First Appeal was preferred in this Court which is pending. In that appeal, as is stated by the learned counsel for the respondents, the prayer for interim relief for staying the operation of the award was refused. Learned counsel thereafter moved an application before the Civil Court purporting it to be u/s 151 C.P.C. which application was rejected vide order dated 1.11.96.

Learned counsel for the applicant submitted that the Award cannot be executed

as a Decree under the law. He placed reliance on a decision of the Supreme Court in *Indore Development Authority v. Tarak Singh and others*, 1995 J.L.J. 724 to support the proposition that the award cannot be executed as a decree of a civil Court.

The judgment relied on applies on different features. This question was not involved in the said decision.

Section 26 of the Land Acquisition Act, 1894 is as extracted below:-

26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a Judgment within the meaning of section 2, clause (2) and Section 2 clause (9), respectively, of the Code of Civil Procedure, 1908 (5 of 1908).

Sub-section (2) of Section 26 of the Act clearly states that every such award shall be deemed to be a decree within the meaning of Section 2 (2) of the Code of Civil Procedure, 1908.

The submission of the learned counsel is that under sub-section (2) of Section 26 of the Act, an award is passed for the limited purpose.

The purpose is for the determination of the Court fees and for appeal and not beyond that. This submission has no substance. Section 26 does not contain any clarification. When it the award is a decree within the meaning of section 2 (2) CPC it is executable as a decree.

In view of the above, the revision is sans merit and is rejected.