
(1974) 03 CAL CK 0018
In the Calcutta High Court
Case No : A.F.O.D. No"s. 4 to 9 of 1962

Lakshmi Narayan Dutta

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 28-03-1974

Acts Referred:

Constitution of India, 1950 — Article 31B

West Bengal Land Development and Planning Act, 1948 — Section 8

Citation : AIR 1975 Cal 103

Hon'ble Judges : R. Bhattacharya, J;K. Sen Gupta, J

Bench : Division Bench

Advocate : Hari Prasanna Mukherjee and Balai Chandra Roy, for the Appellant;
S.C. Das Gupta and N.G. Das, for the Respondent

Final Decision : Partly Allowed

Judgement

Sen Gupta, J.—These six appeals arise out of the awards passed by the Land Acquisition Collector in three different Land Acquisition Cases, namely, 37/3, 37/4 and 37/5 all of the year 1950-51 of the Burdwan Collectprate and affirmed by the Additional District Judge.

2. A short history may be given to show how these six appeals have arisen out of the award made in these three Land Acquisition cases:--

The properties, acquired by the Government under those Land Acquisition cases, belonged to late Hari Bangsha Dutta. On his death, the same have been inherited by his two sons -- one Jit Narayan Dutta and another Lakshmi Narayan Dutta. Both of them are the appellants in the respective appeals to be presently mentioned.

3. In Land Acquisition Case No. 37/4 of 1950-51 C. S. Plot Nos. 50, 51 and 53 of mouza Islabad are involved. On the objection filed by Lakshmi Narayan against the award the same was referred u/s 18 of the Land Acquisition Act of 1894 to the District Judge, Burdwan. It was entered as L. A. Case No. 1283 of 1958 of

that Court. Being dissatisfied with the award and the decree passed by the District Judge the said Lakshmi Narayan has preferred Appeal No. 4 of 1961 in this Court.

4. In respect of above plots Jit Narayan in his -/8/- annas share also made a prayer to refer the case u/s 18 of the said Act before the District Judge. That case was entered as L. A. Case No. 1282 of 1958 of the District Judge at Burdwan. Being dissatisfied with the decree of the learned District Judge, Jit Narayan has preferred the Appeal No 5 of 1961 of this Court.

5. Six C. S. Plots, namely, 49, 52, 54, 58, 60 and 61 of the above mentioned mouza were also acquired by the Government L. A. Case No. 37/3 of 1950-51 was started for determination of the compensation payable to both the brothers Jit Narayan preferred objection and it was referred by the Land Acquisition Collector to the District Judge u/s 18 of the Act. That matter was considered by the District Judge in L. A Case No. 1280 of 1950. Against the award of the District Judge Appeal No. 6 of 1961 has been preferred by Jit Narayan.

6. Lakshmi Narayan's objection against the amount of compensation regarding those plots was also referred to the District Judge by L. A. Collector. The said matter was considered by the District Judge in L. A. Case No. 1281 of 1958. The award did not satisfy Lakshmi Narayan. As such he preferred an appeal which is pending as Appeal No. 7 of 1961 in this Court.

7. C. S. Plots Nos. 55, 56 and 57 of the above mentioned mouza were the subject-matters of acquisition. The assessment of compensation was considered in L. A. Case No. 37/5 of 1950-51 of the Land Acquisition Collectorate, Burdwan. On raising objection by Jit Narayan the matter was referred to the District Judge, Burdwan where the case, was entered as L. A. Case No. 1285 of 1958. Being dissatisfied with the decree passed by the District Judge, Jit Narayan has preferred Appeal No. 8 of 1961 in this Court.

8. On the prayer of Lakshmi Narayan the Land Acquisition Collector sent L. A. Case No. 37/5 of 1950-51 to the District Judge, Burdwan u/s 18 of the Act. The said case was entered as L. A. Case No. 1284 of 1958. Lakshmi Narayan also preferred an appeal against the decree passed therein. The said appeal has been entered in this Court as Appeal No. 9 of 1961.

9. These cases were heard analogously by the learned District Judge as common question of facts and law were involved. In all the cases the appellant claimed higher amount as compensation.

10. The lands referred above were acquired by the State Government for the settlement of immigrants who migrated to West Bengal under the circumstances beyond their control. In short the properties were acquired for refugees' rehabilitation. The acquisition was made under the provisions of West Bengal Land Development and Planning Act XXI of 1948. The Notification No. 8490 L. Dev, for such acquisition was issued on 29-7-1950 and published in the Official

Gazette on 3-8-1950. Declaration was made on 15-2-1951 by the declaration No. 1692 L. Dev. All the lands which were acquired by the State Government for the purpose mentioned above were the subject-matter of the said notification and declaration.

11. The Land Acquisition Collector fixed the compensation according to the provisions of Section 8(b) of the West Bengal Land Development and Planning Act (Act XXI of 1948) (hereinafter referred to as the said Act) and for that purpose the market value of such lands as it stood on the 31st December, 1946 was taken into consideration.

12. The appellants' contention was that the compensation, should be calculated on the basis of market value as it stood on the date of notification i.e., 29th July, 1950.

13. The learned District Judge Shri T. G. Bhattacharjee, heard these appeals and dismissed the same upholding the quantum of damage or compensation awarded by the Land Acquisition Collector to the appellants. The awards made thereunder are not the subject-matter of several appeals before us.

14. Before we proceed further we like to mention the amount of compensation which has been passed and approved by the learned District Judge in each of the several cases.

15. Lakshmi Narayan the appellant in Appeal No. 4 has been awarded compensation for the sum of Rs. 1478-4-3. Jit Narayan appellant in Appeal No. 5 got the same amount.

16. Jit Narayan in Appeal No. 6 has been awarded the compensation of Rs. 6732-9-6. Lakshmi Narayan in Appeal No. 7 also got the same amount.

17. Jit Narayan in Appeal No. 8 has been awarded the compensation for the sum of Rs. 5586-14-6, The same amount has been awarded to Lakshmi Narayan who is appellant in Appeal No. 9.

18. Mr. Mukherjee has attacked the finding of the learned Additional District Judge on two grounds. Firstly it has been submitted that the provisions for determining the amount of compensation as laid down in Clause (b) of Section 8 of the Act are ultra vires the Constitution and as such the compensation should be determined not on the basis of the market value of the land as existed on the 31st day of December, 1946, but on the basis of the market value of the properties in question as existed on the date of publication of notification for acquisition. Secondly, Mr. Mukherjee's contention is even if the basis of the market value of land as existed on the 31st day of December, 1946, be accepted for the purpose of calculation of compensation to be paid to the appellant still the Land Acquisition Collector and the learned Additional District Judge have omitted to consider the materials on record to arrive at a correct assessment of the market value of the properties. According to Mr. Mukherjee, even on that basis the compensation must be much higher than what has been assessed by the

Land Acquisition Collector and approved by the learned Additional District Judge.

19. As the provision of Section 8 of the Act has been challenged we propose to quote the relevant portion of that section here:

"A declaration u/s 6 shall be conclusive evidence that the land in respect of which the declaration is made is needed for a public purpose and, after making such declaration, the Provincial Government may acquire the land and thereupon the provisions of Land Acquisition Act, 1894 (hereinafter in this section referred to as the said Act), shall, so far as may be apply,

Provided that--

(a)

(b) in determining the amount of compensation to be awarded for land acquired in pursuance of this Act, the market value referred to in clause first of Sub-section (1) of Section 23 of the said Act shall be deemed to be the market value of the land on the date of publication of the notification under Sub-section (1) of Section 4 for the notified area in which the land is included, subject to the following condition, that is to say.--

If such market value exceeds by any amount the market value of the land on the 31st day of December, 1946, on the assumption that the land has been at the date in the state in which it in fact was on the date of publication of the said notification, the amount of such excess shall not be taken into consideration.""

20. Our attention has been drawn to the decision in the cases of *The State of West Bengal Vs. Bela Banerjee and Others*, in order to show that the proviso (b) of Section 8 of the Act which fixed the market value on December 31, 1946 as the maximum compensation for land acquired under it was unconstitutional as it offends against the provision of Article 31(2) and as such void. Their Lordships have, no doubt, held that the impugned portion of Section 8 was void as ultra vires the Constitution and as such that portion was struck down. By that decision their Lordships upheld the judgment of this Court in the selfsame case as reported in *The West Bengal Settlement Kanungoe Cooperative Credit Society Ltd. Vs. Mrs. Bella Banerjee and Others*, . The decision of the High Court was made on March 22, 1951. Mr. Mukherjee has also drawn our attention to a decision in the case of *Mangal Sen Vs. Union of India*, . In that case resettlement of displaced persons (Land Acquisition Act) was the subject-matter of attack. The said Act came into operation more than 18 months before the Constitution came into operation. Their Lordships held that Clause (e) of Section 7(1) of that Act was void as it violated the provisions of Section 299(2) of the Government of India Act, 1935. It was contended that under the provisions of Government of India Act no property could be acquired without providing for its compensation which must be said to be just equivalent for the loss of the same. But as Clause (e) of Section 7(1) of that Act did not make a provision like that, it should be considered to be void as it violated the mandatory provision of Government of

India Act, 1935. Mr. Dasgupta has, however, tried to make a distinction between the facts of the above mentioned two cases. According to Mr. Dasgupta in Bela Rani's case the impugned Act was passed on 27-4-1948 and as such within 18 months of the date of Constitution which came into operation on 26th January, 1950. But the Resettlement of Displaced Persons (Land Acquisition) Act was admittedly passed beyond 18 months. So it could not be said to be an existing law as the same violated the provision of the Government of India Act and as such void. Accordingly, it was urged that the principle as enunciated in the Delhi case cannot be extended to the case under consideration.

21. The said argument even if it be accepted, does not help Mr. Dasgupta in any way. Whatever might be the distinction sought to be made out, the result is the same. After the decision of the Supreme Court the latter part of proviso (b) to Section 8 of the impugned Act fixing the market value on December 31, 1946, as the maximum compensation for land acquired, became unconstitutional and as such void. The question next arises for our consideration as to what is the effect of the several amendments of the Constitution in that regard and whether they saved the constitutionality of the impugned portion of the proviso to Section 8 of the said Act.

22. Let us, therefore, consider the several amendments of the Constitution as made from time to time. The first amendment by the Constitution (First Amendment") Act, 1951 came into operation on 18th June, 1951. By the said amendment Articles 31(A) and 31(B) have been incorporated in the Constitution. At the time when Article 31(B) came into operation, in the 9th Schedule of the Constitution there were only 13 Acts mentioned. The impugned Act at that time was not added in the 9th Schedule. The decision in Bela Rani's case was made on December 8, 1953. So the first amendment by which Article 31(B) of the Constitution has been incorporated could not save the impugned Act as the same did not find its place in the 9th Schedule at that time, Mr. Dasgupta contends that in order to save the said Act the 4th amendment of the Constitution had to be made. Accordingly, the Parliament passed the 4th Amendment in the Constitution on the 26th April, 1955, by the Constitution (4th Amendment) Act 1955. By the said amendment in the Article 31(B) of the Constitution the impugned Act was added as item No. 20 in the 9th Schedule, Mr. Mukherjee submits that as this impugned Act was not in the 9th Schedule in the Constitution before the decision of Bela Rani's case, the same could not be saved as the same had already been declared to be ultra vires, the 4th amendment of the Constitution was passed after the decision in the Bela Rani's case as such the said amendment could not cure the defect which was pointed out in the Bela Rani's case by the Supreme Court. Mr. Dasgupta, on the other hand, has contended that reading of Article 31(B) as it stood at the time when this matter came for the consideration of the Court would clearly indicate that the particular provision which was struck down by the Supreme Court has been saved by this amendment. Our attention has been drawn to a decision in the case of The State of Uttar Pradesh and Others Vs. H.H. Maharaja Brijendra Singh, . That is the case

in which U. P. Land Acquisition (Rehabilitation of Refugees) Act (26 of 1948) with similar provisions came for consideration. Section 11 of the said Act is almost similar to the provision of Section 8 of the impugned Act. Their Lordships while discussing that case came to the following finding:

"In view of the Judgment of this Court in *Dhirubha Devisingh Gohil Vs. The State of Bombay*, 1 the ground of unconstitutionality based on the contravention of Section 299 of the Government of India Act would not be available to the respondent. But it was argued on behalf of the respondent that the amendment of the Constitution which came after the decision of the Allahabad High Court cannot validate the earlier legislation which, at the time it was passed was unconstitutional and reliance was placed upon the judgment of this Court in *Saghir Ahmad Vs. The State of U.P. and Others*, . But in the present case the provisions of the Act have been specifically saved from any attack on their constitutionality as a consequence of Article 31-B read with the Ninth Schedule, the effect of which is that the Act cannot be deemed to be void or ever to have become void on the ground of its being hit by the operation of the Government of India Act."

Mr. Dasgupta contends that that is the complete answer to the point which has been raised by Mr. Mukherjee challenging the validity and the constitutionality of the proviso to Section 8 of the impugned Act. Reading Article 31-B as it stands now we are of the view that the impugned Act and the proviso added thereto cannot be struck down on the ground that the same offended against the other provisions of the Constitution. We further hold that the constitutionality of the impugned Act or any part of it shall not be considered with reference to the point when the said statute was enacted but it should be considered with reference to the provisions of Article 31-B as it stood at the time when the same is being considered. Article 31-B of the Constitution itself being retrospective, the impugned Act having been included in the 9th Schedule should be considered to be in the 9th Schedule from its inception. For the reasons stated the contention of Mr. Mukherjee that the proviso to Section 8 was ultra vires the Constitution, cannot be given effect to and as such it fails.

23. Let us now consider the second branch of the attack of Mr. Mukherjee challenging the quantum of compensation awarded by the Land Acquisition Collector and approved by the learned Additional District Judge. After what we have found, we are to see whether the compensation has correctly been assessed and calculated on the basis of the sale deeds or other materials on record taking the market value of the year 1946. It is well known that the price of land varies at different times and it depends on various factors. Valuation of immovable property is not an exact science. There must always be scope for inference and to some extent for conjecture. In doing so, there must be some dependable and acceptable reason for the exercise of inference or conjecture which must, however, be tried to be minimised as far as possible. It is well known that to find out the proper valuation it is not a mathematical problem

which can always be solved with mathematical precision and accuracy. Keeping that principle in view, we are inclined to adopt the following [methods:

(i) Price paid within a reasonable time for the land in this case it should be near about December 31, 1946.

(ii) Price paid for adjacent lands possessing similar advantages.

24. Mr. Mukherjee has drawn our attention to the fact that the learned Additional District Judge accepted Ext. A a sale deed dated the 15th March, 1946 and another document Ext. A (1) dated 6th August, 1946, as the basis for calculation of damage to be awarded in this case. In Ext. A plot No. 619 and in Ext. A (1) plot No. 714 of mouza Islabad were the subject-matter of sale. The learned Additional District Judge has omitted to consider that these plots are situated far away from the Grand Trunk Road. Accordingly, the same could not be the basis for the fixation of compensation to be awarded in this case. The learned Additional District Judge while considering these two sale deeds became conscious about that As such he held that as the compensation awarded by the Land Acquisition Collector was higher than the valuation of the lands covered by Ext. A and Ext. A (1), the compensation so awarded by the Land Acquisition Collector should be considered to be proper and adequate. That shows that the Land Acquisition Collector failed to arrive at a correct valuation of the property as existed in the year 1946. In this view of the matter we are not inclined to accept the valuation made by the Land Acquisition Collector and approved by the learned Additional District Judge.

25. Let us, therefore, consider what should be correct valuation which might be said to be prevalent near about December 31, 1946. Before we proceed further we may mention that the Land Acquisition Collector fixed the valuation of the Rarden lands i.e., Plots Nos. 50 and 53 at the rate of Rs. 2,000/- per acre and that of doba at the rate of Rs. 1,000/- per acre. That doba is Plot No 51. These plots as already noted are involved in Appeals Nos. 4 and 5 of 1961. Plots Nos. 49. 54 are garden lands and 52 is the tank the valuation of which has been assessed at the rate of Rs. 2,000/- per acre, and the valuation of the gardens in Plots Nos. 58, 60 and 61 has been assessed at the rate of Rs. 4,000/- per acre. They are the plots which are the subject-matter of consideration in Appeals Nos. 6 and 7. Turning to Plot No. 55 which is the homestead its valuation has been fixed at the rate of Rs. 2,000/- per acre and those of Plots Nos. 56 and 57 the valuation of the same has been fixed at the rate of Rupees 3,500/- per acre. These are the plots which are the subject-matter in Appeals Nos. 8 and 9 of 1961.

26. We are to consider whether the above rate of valuation which has been allowed by the L. A. Collector can be said to be proper valuation made to calculate the compensation to be awarded to the appellants. It is unfortunate that nobody has been examined on behalf of the State in order to show on what basis the valuation has been made. The persons who actually visited the locality on behalf of the State of West Bengal for assessing the compensation to be paid

to the awardees ought to have been produced before the court to give an idea, what is the condition of the land acquired; what is the condition of the surrounding lands and of other factors relevant for the purpose of determination of the proper compensation to be paid to the awardees. Accordingly, we are to take into consideration the sale deeds which have been produced by the appellants in the court of Additional District Judge in support of their claim of compensation at a higher rate. Ext 1 is a sale deed dated 24th May. 1945. The land sold was the part of homestead and the plot is 243 of mouza Shakhari para. Some other portion of the said plot was sold on 18-2-1946. The property covered by first sale deed, Ext. 1 was sold at the rate of Rs. 12,857/- per acre and the second sale deed, Ext. 1 (a) showed that the land was sold at the rate of Rupees 12,500/- per acre. The third sale deed is dated 23-4-1946, It cannot give any basis for the calculation of the valuation as the plot was sold with the structures on the same. Without setting correct assessment of the valuation of the structure the real valuation of the land cannot be ascertained. So the said sale deed cannot be taken as the basis for calculation of compensation in this case. The 4th one, Ext. 1 (c) suffers also from the same defect. Ext. 1 (d) though of the year 1947 cannot be accepted as by the same, the land and doba were sold and the lump price for the same was paid. In the absence of any evidence to split up that valuation the same cannot be taken as a guide for our purpose. As such it should also go out of our consideration. Other sale deeds being of the years 1948 to 1950 cannot be taken as the proper guide for the assessment of valuation which has got to be made on the basis of the market value which was prevalent in the year 1946. There is another defect which may be noted here. The properties covered by Exts 1 and 1 (a) are the bastu lands. Thus we are getting the price of such lands existing on the dates of those sale deeds. The subject-matter of Appeal No. 8 i.e., Plots Nos. 55 and 57 are the bhiti lands. The valuation of such lands has been fixed by the Land Acquisition Collector at the rate of Rs. 2,000/- and Rs. 3,500/- per acre. We have seen that the plot 243 is situated contiguous south of the G. T. Road Accordingly, the said plot must have been sold at a higher price. Plots Nos. 55 and 57 as appear from the c. s. map are situated a little away to the north of G. T. Road. Accordingly, we hold that justice would be done if the valuation of such lands be fixed at 6,000/- per acre. Plot No. 56 is a garden but it is situated just contiguous to the north of the G. T. Road. We. therefore, like to fix the valuation or the market price at the rate of Rs. 6,000/- per acre at the relevant date though the quality of that land is garden and not homestead. On that basis if the compensation be calculated, then the valuation of the land involved in Appeal

Nos. 8 and 9 is Rs. 11,820-0-0

value of the trees Rs. 99-4-0

15 per cent additional compensation is Rs. 1,773-0-0

Damage is Rs. 200-0-0

Interest @ 6% for 67 months is Rs. 4,556-0-0

Total Rs. 18,343-4-0

Half of it is Rs. 9174-2-0 i.e., each of the appellants in Appeals Nos. 8 and 9 will get Rs. 9174-2-0 by way of compensation. We, therefore, direct the State Government to deposit Rs. 3587-3-6 p. as the excess amount to be paid to each of the appellants in Appeal Nos. 8 and 9.

27. In Appeals Nos. 4 and 5 the gardens. Plot Nos. 50. 53, doba Plot No. 51 are the subject-matter of acquisition. as they are situated a little away from the G. T. Road we assess the valuation of the property as might have existed in the year 1946 at the rate of Rs. 6,000/- per acre. With regard to doba there is no standard by which we can fix its real valuation. Neither any evidence has been adduced on behalf of the appellants to show that the valuation assessed by the Land Acquisition Collector in this regard is wrong. Accordingly, that valuation of doba at the rate of Rs. 1,000/- per acre is accepted. On that basis:

The value of the land and doba is Rs. 5,260-0-0

15% additional compensation is Rs. 789-0-0

Interest @ 6% for 67 months is Rs. 2,010-0-0

valuation of the trees is Rs. 155-12-0

Total Rs. 8214-12-0

Half of it is Rs. 4107-6-0 payable to each of the appellants in Appeals Nos. 4 and 5 by the State Government as the total compensation for the above mentioned plots acquired by the State Government. Accordingly, the excess sum of Rupees 2624-1-4 is to be paid by the State Government in addition to the amount covered by the Land Acquisition Collector to each of the appellant.

28. Next we consider the valuation for ascertaining the compensation with regard to Plots Nos. 49, 52, 54, 58. 60 and 61 the subject-matter of disputes in Appeals Nos. 6 and 7, Plots Nos. 49 and 54 are gardens. They are situated at a distance from the G. T. Road. Accordingly, we fix the valuation at the rate of Rs. 6,000/- per acre. In respect of valuation of Plots Nos. 58, 60 and 61 their valuation ought to be a little higher than those of the other plots already mentioned as they are situated just contiguous north to the G. T. Road. Accordingly, though they are gardens we fix the market price at the rate of Rs. 8,000/- per acre at the relevant time i.e., in the year 1946 In this connection it may be mentioned that Plot No. 52 is the tank. The appellants have not produced any document to show any transaction concerning any tank. Accordingly, there is no basis by which we can hold that the market value at the rate of Rs. 2,000/- per acre as fixed by the Land Acquisition Collector for the tank in Plot No. 52 is not adequate. On that basis we want to award compensation for acquisition of these lands to the appellants in Appeals Nos. 6 and 7.

on the above rate: the valuation of the land and the tank comes to Rs. 13,360-0-0

15% additional compensation is Rs. 2,004-0-0

Interest @ 6% for 67 months is Rs. 5,092-0-0

valuation of the trees is Rs. 3,090-0-0

Total Rs. 23,546-0-0

Half of it is Rs. 11,773/- i.e., the total amount of compensation payable to each of the appellants in Appeals Nos. 6 and 7. We, therefore, hold that each of the appellants will get Rs. 5010-6-6 in excess of the amount which has been awarded to each of them and the award should be corrected accordingly.

29. Before we conclude we want to mention that we have calculated the valuation of the properties acquired which are situated in Islabad with reference to sale deeds of the properties situated in mouza Sakharipukur. Mr. Dasgupta's contention is that the sale price of the properties at mouza Sakharipukur could not be proper guide in the assessment of the market value of the properties situated in a different mouza. That submission is not tenable for the reason that in between the properties acquired and the lands covered by Exts. 1 (a) and 1 (b) the G. T. Road passes. The c. s. map Exts. 4 and 4 (a) will show the position of the respective c. s. plots. From this we are convinced that the plots acquired and the plots covered by the sale deeds Exts. 1 and 1 (a), are all situated almost in the same place having the same advantage. Therefore, the difference in the name of mouza will not make any difference in the valuation to which we have arrived at.

30. Next question that arises for our consideration is whether the appellants should be granted any interest on the excess amount from the date of taking of Possession of the land acquired by the Collector till the money is deposited as per Section 28 of the Parent Act (Act 1 of 1894). The wording of the section clearly indicates that the appellants cannot as a matter of right claim that interest. It, however, depends on the discretion of the court either to grant or to refuse the same. The said view gets support from the decision of the Supreme Court in the case of Raghubans Narain Singh v. The Uttar Pradesh Government reported in AIR 1967 SC 465. On behalf of the appellants, no such claim has been made either in their petition of reference or even in the grounds of appeals. No argument has also been advanced in this score on behalf of the appellants at the time of hearing of these appeals. Considering all these facts, we are not inclined to award any interest as laid down in Section 28 of Act 1 of 1894.

31. Our finding may be summarised like this:

In Appeals Nos. 4 and 5 each appellant will get Rs. 4,103-6-0 in place of Rs. 1,478-4-8p. as compensation Hence, Collector will deposit Rs. 2,624-1-4, the excess amount to the credit of the appellant in Appeal No. 4 and the same

amount (Rs. 2,624-1-4p.) to the credit of appellant in Appeal No. 5.

In Appeals Nos. 6 and 7 each appellant will get Rs. 11,773/- instead of Rupees 6,762-9-6p. as compensation. Hence. Collector will deposit Rs. 5,010-6-6p., the excess amount to the credit of the appellant in Appeal No. 6 and the same amount (Rs. 5,010-6-6p.) to the credit of appellant in Appeal No. 7. Similarly in Appeals Nos. 8 and 9 each appellant will get Rs. 9,174-2-Op. instead of Rupees 5,586-14-6p. as compensation Hence, Collector will deposit Rs. 3,587-3-6p. the excess amount to the credit of the appellant in Appeal No. 8 and the same amount (Rs. 3,587-3-6p.) to the credit of the appellant in Appeal No. 9.

32. We direct the Collector to deposit the above mentioned sums in the Court of Additional District Judge in the connected cases, within two months from the date of the decree.

33. We also directed that the sum already deposited or to be deposited as per award of the L. A. Collector, and not yet withdrawn, would be payable to that appellant, who has not yet withdrawn the same. In case any part of the same, still remains unpaid or not yet been deposited, the Collector should also deposit the same in addition to the excess amount, which he has been directed to deposit as per this judgment

34. In the result, the appeals are partly allowed with proportionate cost. Let the six separate decrees in the appeals mentioned be drawn up. Hearing fees assessed at 5 G. M. in each appeal.

B. Bhattacharya, J.

35. I agree.