

(1934) 11 CAL CK 0014
In the Calcutta High Court

Sm. Charan Manjari Dasi

APPELLANT

Vs

Land Acquisition Collector

RESPONDENT

Date of Decision : 29-11-1934

Acts Referred:

Land Acquisition Act, 1894 — Section 32, 32(2)

Citation : AIR 1935 Cal 119

Judgement

1. This Rule was directed against an order of the learned Special Land Acquisition Judge at Alipore, passed on 18th June 1934, purported to have been made u/s 32, Land Acquisition Act, disallowing certain charges and expenses as contemplated by Sub-section (2) of Section 32, incidental to the purchase of property by way of investment of money deposited in respect of acquired lands belonging to a person incompetent to alienate property.

2. It appears that it was necessary to engage the services of an Attorney for the purchase of the property which had been advertised for sale by the Registrar of this Court in the Original Side. The Attorney engaged with the approval of the Special Land Acquisition Judge, made necessary investigations regarding the suitability, market value and title of the property in question; and did other things incidental to the completion of the purchase as made at the Court sale. The Attorney submitted his bill, to which objection was taken by the Land Acquisition Collector on the ground that certain amounts charged were excessive. The Judge referred the bill to the Taxing Officer in the Original Side of this Court for checking the bill and for a report. The Taxing Officer was not in a position to comply with the requisition of the Special Land Judge, as the rules of this Court did not permit the adoption of such a course, as proposed by the Judge. The Attorney's bill was checked by Mr. E.C. Esson of the Firm of Messrs. Sanderson and Morgans, Government Solicitors, who certified that the charges contained in the bill of costs submitted by the Attorney were fair and reasonable for work done, except Rs. 75-14-6. The matter then came before the Judge for final decision, and on objections raised on behalf of the Land Acquisition Collector it was held by the Judge that the Attorney was entitled only to remuneration for

work done from 2nd May 1932 to 14th September 1932, and also to the payment of Rs. 924-8-0, for stamp only for the conveyance and Rs. 57 for registration fee. The Attorney's bill "for other works" was disallowed by the Judge.

3. In view of the previous order passed by the learned Judge on 26th February 1934, by virtue of which the Attorney was entitled to get reasonable remuneration, and regard being had to the fact that the charges in the Attorney's bill were considered to be fair and reasonable by a competent person, by whom it was checked, we are unable to agree with the learned Judge in the Court below that the Attorney's bill relating to work done by him before 2nd May 1932 was to be disallowed. On the materials before us we have no hesitation in coming to the conclusion that the work done by the Attorney as evidenced by his bill of charges were acts essential and necessary for purchasing property, and as such were reasonable charges and expenses as contemplated by Section 32(2), Land Acquisition Act. In the above view of the case before us, the order of the learned Judge cannot be allowed to stand. A question was raised before us by the learned Senior Government pleader, representing the Land Acquisition Collector, the opposite party in this Rule, that no part of the charges and expenses covered by the Attorney's bill was payable by the Collector. It was argued before us that regard being had to the position, that the acquisition money in the case was not invested in land, immediately after the same was deposited by the Collector in Court. The charges and expenses incurred for purchase of property at a subsequent stage were not payable by the Collector; and this argument was sought to be supported by provisions contained in Section 32, Land Acquisition Act. It may be mentioned that the argument thus advanced before us was not raised in any form before the Special and Acquisition Judge, and on a plain reading of the provisions contained in Section 32, taking those provisions together, we are wholly unable to appreciate and give effect to the contention raised on behalf of the Collector that none of the charges and expenses mentioned in the Attorney's bill was payable by the Collector under the law.

4. The result of the decisions we have arrived at in the case before us is that the Rule issued by this Court must be made absolute; and we direct accordingly. The order passed by the learned Judge in the Court below is discharged, and we direct that the Attorney's bill as certified by Mr. Esson be paid by the Collector as reasonable charges and expenses as contemplated by Section 32, Land Acquisition Act. The Rule is made absolute. There is no order as to costs in the Rule.