

(1931) 02 BOM CK 0005
In the Bombay High Court
Case No : First Appeal No. 364 of 1925

The Assistant Collector, South Salsette	APPELLANT
Vs	
Shapurji Cawasji	RESPONDENT

Date of Decision : 09-02-1931

Acts Referred:

Land Acquisition Act, 1894 — Section 27(2)

Citation : (1931) 33 BOMLR 1210

Hon'ble Judges : Murphy, J; John Beaumont, J

Bench : Division Bench

Judgement

Murphy, J.—delivered a judgment dealing with the merits of the case.

Beaumont C.J.

2. In this case it has been argued that the question of costs is governed by Section 27(2) of the Land Acquisition Act. That argument involves this, that the words in Sub-section (2).

When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector.

governs the whole proceedings, both in the Court of first instance and in any subsequent Courts of appeal. I think that is not the right view. I think Section 27(2) is limited to the proceedings in the Court of first instance. The word "upheld" would not be applicable to any other Court except the Court of first instance, because that is the only Court in which the question of upholding the Collector's award arises, and in any other Court the question would be as to whether the decision of the lower Court and not of the Collector should be upheld. Moreover, the claimant's argument would give rise to this singular result that if a Collector makes an award, which is varied and not upheld in the District Court and the claimant then unsuccessfully appeals to this Court and then to the Privy Council, the claimant would be entitled to the costs of these unsuccessful appeals. That cannot, I think, have been intended, I think, therefore, the costs

are in our discretion.