

PETITIONER:
SHRI IRSHAD ALI & ORS.

Vs.

RESPONDENT:
HAZI ABDUL SUKHUR MOZUMDAR & ORS

DATE OF JUDGMENT: 07/07/1997

BENCH:
K. RAMASWAMY, D. P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:
Present;

Hon'ble mr. Justice K. Ramaswamy
Hon'ble Mr. Justice D.P. Wadhwa
Shakeel Ahmed Syed, Adv. for the appellants
Vijay Hansaria, Ms. Smita Shankar, and S.K. Jain, Advs. for
the Respondents

O R D E R

The following order of the Court was delivered:

Leave granted. We have heard learned counsel for both
the parties.

This appeal arises against the judgement and order
dated July 12, 1996 in Review Application No. 1 of 1995 and
the main judgment dated October 8, 1993 in First Appeal No.8
of 1989.

The admitted position is that the appellant is entitled
to 1/3rd share of the acquired land. The total extent of the
land acquired is 10 Bighas, 15 Khatas, chattaks and 5
gondas. The Land Acquisition officer awarded compensation
against which the parties sought reference for re-
determination of compensation etc. under section 18 of the
Land acquisition Act. The Reference Court by its award dated
September 7, 1988 enhanced the Compensation. and awarded
compensation. To the extent of the Claim of the respondent
no. 1., namely, bighas, 16 kathas, 1 chatak, namely 1/3rd of
the entire land, he filed an appeal under section 54 of the
Land Acquisition Act. The High Court enhanced the
Compensation. Thereafter, the appellant filed his
application under Order 47, Rule 1, CPC for review of the
order. After reconsidering the matter and the main order,
the high Court dismissed the same. Thus, this appeal by
special leave. In View of the Fact that the total extent of
the land is 10 Bighas, 15 kathas, 2 chattaks, 2 gandas, as
referred earlier, in which admittedly respondent No.1 is
having 1/3rd share, the first respondent had waived his
claim for higher compensation for the above extent of the
land. Since the appellants had not challenged the award of
the reference Court and the award has become final to the
extent of their share, they are entitled to any higher
compensation for the extent of 1/3rd share.

The appeals are therefore, dismissed. No costs.

JUDIS