

Ø%PART-HEARD
ITEM NO.101

COURT NO.2

SECTION XVI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2608 OF 2001

MANNULAL FOMRA (D) BY LRS.

Appellant (s)

VERSUS

STATE OF WEST BENGAL & ANR.

Respondent(s)

(With appln(s) for permission to file rejoinder affidavit and
office report)

Date: 25/03/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE G.S. SINGHVI

For Appellant(s) Mr. K.K. Venugopal, Sr. Adv.

Mr. S.K. Gambhir, Sr. Adv.
Mr. Sunil Kumar Jain, Adv.
Mr. Ajay Bhatia, Adv.
Mr. Ankur Talwar, Adv.

For Respondent(s)

Mr. Jaideep Gupta, Sr. Adv.
Mr. G.S. Chatterjee, Adv.
Mr. Raja Chatterjee, Adv.
Mr. Sachin Das, Adv.

Mr. Avijit Bhattacharjee, Adv.
Mr. Soumya Kundu, Adv.

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel for the parties.

The appeal is allowed.

No costs.

[T.I. Rajput] [Savita Sainani]
A.R.-cum-P.S. Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2608 OF 2001

Mannulal Fomra (Dead) by L.Rs.

...Appellant(s)

Versus

State of West Bengal and Anr.

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal is directed against the order of the Calcutta High Court whereby the first appeal preferred by the respondents and cross-objections filed by the appellants in the matter of award of compensation, rental and interest in lieu of requisition and acquisition of the appellants' property were dismissed.

The appellants owned property bearing Nos. 83 and 84, Acharya Jagdish Chandra Bose Road, Calcutta. Pursuant to notification dated 23.4.1976 issued under Section 3(1) of the West Bengal Land (Requisition and Acquisition) Act, 1948 [for short "the Act"], possession of premises bearing no.83 and a portion of premises bearing no. 84 was taken by Calcutta State Transport Corporation for establishment of a sub-depot. After fourteen years, the premises were acquired by the State Government vide notification dated 7.4.1990 issued under Section 4(1) of the Act. By an award dated 19.6.1990, the Land Acquisition Collector assessed the market value of the

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land @ Rs.72,416/- per cottah. On a reference made at the instance of the appellants, the Special Land Acquisition Judge, Alipore vide his order dated 22.2.1994 assessed the market value of the land @ Rs.2,68,990/- per cottah. He also assessed the value of the structure at Rs.3,01,924/-.

The State Government challenged the award of the reference court by filing an appeal which was registered as First Appeal No.151 of 1995. On being noticed by the High Court, the appellants filed cross-objections which came to be registered as C.O.T. No. 1423 of 1995.

By the impugned order, the High Court dismissed the first appeal by recording a finding that the determination of market value made by the reference court was legally correct and justified. Simultaneously, the cross-objections filed by the appellants were also dismissed but without assigning any reason whatsoever.

In our opinion, the impugned order is liable to be set aside only on the ground that the cross-objections filed by the appellants were dismissed by the High Court without recording any reason.

Accordingly, the appeal is allowed, impugned order is set aside insofar as it relates to dismissal of the cross-objections of the appellants and the matter is remanded to the High Court for disposal of the cross-objections on merits in accordance with law after giving opportunities of hearing to the parties.

.....J.
[B.N. AGRAWAL]

.....J.
[G.S. SINGHVI]

New Delhi,
March 25, 2009.