

**Prayag Chand Vs. Land Acquisition Officer and anr.**

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**Court :** Rajasthan

**Decided On :** Dec-09-2004

**Reported in :** RLW2005(2)Raj1234; 2005(3)WLC143

**Judge :** Rajesh Balia and; Dinesh Maheshwari, JJ.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 18, 23, 26, 26(2) and 54; Rajasthan Court Fee and Suits Valuation Act, 1961 - Sections 20, 46 and 47 - Schedule - Articles 1, 2 and 3; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 2, 2(2), 2(14), 26(2), 47, 104, 144 and 476 - Order 43; Displaced Persons (Debts Adjustment) Act, 1951 ; [Court Fees Act, 1870](#) - Sections 8 - Schedule - Article 11; Code of Civil Procedure (CPC) (Amendment) Act, 1976; Land Acquisition (Amendment) Act, 1953 - Sections 26; [Requisitioning and Acquisition of Immovable Property Act, 1952](#) - Sections 11 - Schedule - Articles 3 and 10; Tamil Nadu Court-Fees and Suits Valuation Act, 1955 - Sections 51; [Bombay Court Fees Act, 1959](#) - Sections 11; Madhya Pradesh Court-fees Act - Sections 8

**Appeal No. :** D.B. Civil Special Appeal (C) No. 70 of 2003

**Appellant :** Prayag Chand

**Respondent :** Land Acquisition Officer and anr.

**Advocate for Def. :** K.L. Thakur, Addl. Adv. General

**Advocate for Pet/Ap. :** K.C. Samdariya, Adv.

**Disposition :** Appeal dismissed

**Judgement :**

Rajesh Balia, J.

1. This appeal is directed against the determination of the question of court fees, by the learned Single Judge that is payable in an appeal preferred by a claimant against the award of compensation by the District Court Under Section 23 of the [Land Acquisition Act, 1894](#) in a reference made Under Section 18 of the Act of 1894.

2. The appellant has preferred an appeal Under Section 54 of the Act of 1894 against the determination of compensation by the learned District Judge to the extent he was aggrieved of it. The appeal was presented on the court fee of Rs. 2/-. The appellant has also not mentioned the value and subject matter of the appeal. The office raised an objection that the memo of appeal does not show the subject matter and value of the appeal and that the court fee payable on the memo of appeal against the award of compensation by the District Judge Under Section 23 is ad valorem on the value of the subject matter of the appeal. In support of this objection, a reference was made to the decision of this Court in CMA (Defect) No. 1661/1994 decided on 7.9.1995, deciding the like objections earlier and holding that the court fee of Rs. 2/- on the memo of appeal is not sufficient. In reply, thereof, learned counsel asserted that the memo of appeal was presented on the right court fee.

3. When the matter came up for hearing before the learned Single Judge on 4.3.2003 in respect of the aforesaid office objection, learned counsel for the appellant volunteered to mention the valuation of the appeal and submitted that Section 46 of Rajasthan Court Fee and Suits Valuation Act, 1961 (hereinafter referred to as 'the Act of 1961') would not govern the question of requirement of payment of Court fees because while it provides for valuation of appeal against an award of compensation under any law relating to land acquisition, it does not prescribe as to at what rate the Court Fee would be payable. By virtue of Section 47 read with Entry-III of Schedule-II, the Court fees is to be paid either as paid in the Court below or as a fixed court fees thereunder. Learned counsel also relied on a decision of Hon'ble Supreme Court in *Diwan Brothers v. Central Bank of India, Bombay and Ors.* (AIR 1976 SC 1503).

4. However, the learned Single Judge did not sustain this contention pointing out that the Hon'ble Supreme Court in *Diwan Bros'* case was considering the question of court fee in an entirely different situation and was not considering the question of payment of court fees on an appeal arising out of an order passed for compensation for the acquisition of immovable property for public purposes where the legal provision required to be considered in that case was not analogous or parimateria with the provisions of Section 46 of the Rajasthan Court Fees and Suits Valuation Act.

5. Relying on the decision referred to in the office objection and an earlier decision of this Court in *Achal Singh and Anr v. State of Rajasthan and Ors.* (1984 WIN 658) and in *Rajasthan State Industrial Development and Investment Corporation v. State*, (1985 RLR 726) the learned Single Judge held that the appellant is liable to pay the Court fees as contemplated by Section 46 ad valorem on the value of subject matter of appeal. With these findings, 12 weeks time was allowed to do the needful, failing which, the appeal was ordered to be dismissed without reference to the Court.

6. The special appeal was admitted on 24.4.2003 and by way of an interim order it was ordered the peremptory order passed by the learned Single Judge shall remain stayed and the appeal shall be listed for admission only after decision of this special appeal.

7. It further transpires from the record that during all these proceedings, the special appeal was dismissed for want of prosecution on 26.4.2004. It also transpires that the special appeal was ordered to be restored on 29.7.2004 by allowing the restoration application filed by the learned counsel on behalf of the appellant.

8. However, prior to restoration of this special appeal, due to dismissal of appeal as aforesaid treating the peremptory order dated 4.3.2003 passed by learned Single Judge to be in operation, the Deputy Registrar (Judicial) recorded dismissal of the misc. appeal in terms of the aforesaid peremptory order on 3.6.2004. The appellant has moved a Restoration Application No. 47/2004 for restoring the said Misc. Appeal No. 864/2000 (DRJ) which has also been annexed with the record of this special appeal.

9. Since the present special appeal was dismissed in default on 26.4.2004 and was restored to its original number on 29.7.2004, such restoration had the result of continuance of appeal from the stage where it was dismissed for want of prosecution with the existing proceedings as on that date. In that view of the matter, in our opinion, the effect of peremptory order did not survive on restoration of special appeal and the appeal before the learned Single Judge came alive to be considered. Lest there be any doubt about it, in the interest of justice, we direct that the S.B. Civil Misc. Appeal No. 864/2000 (DRJ) shall stand restored to its original number and to be treated as pending in view of the fact that the special appeal was admitted on 24.4.2003 and the operation of peremptory order was stayed and as a consequence of restoration, for making an effective order and not to allow failure of justice for this technical reason, the application for restoration of S.B. Civil Misc. Appeal No. 864/2000 (DRJ) stands allowed and the said appeal stands restored.

10. It has been contended by the learned counsel for the appellant before us that the Hon'ble Supreme Court has, held in *Diwan Brother's* case (*supra*) that,

'The term 'decree' as used in the Court Fees Act is a term of art and it must be deemed to have been used in

the same sense as understood by the Code of Civil Procedure. Neither the Court Fees Act nor the Displaced Persons (Debts Adjustment) Act has defined the term 'decree.' Further, there is intrinsic evidence to show that the Legislature in enacting the Court Fees Act used the term 'decree' in the same sense as it was used in Section 2(2) of the Code of Civil Procedure, 1908. This also shows that the Court Fees Act and the Code of Civil Procedure are more or less complementary to each other. In the present case, the order termed as decree is not a decree merely because mentioning by the appellant that the order was passed under Displaced Persons (Debts Adjustment) Act. The order passed by the Tribunal would not make it a decree for the purpose of Court Fees Act for its valuation and payment of court fee as paid in an appeal against the order passed by the Tribunal. Factors which confirms the word decree as has been given in the Code of Civil Procedure must be seen.'

11. In this connection, it was urged by the learned counsel for the appellant that three ingredients are necessary for the purpose of a decree as has been enunciated in the Code of Civil Procedure. To construe any document to be a decree, there must be three essential requirements; firstly, the adjudication must be given in a suit; secondly, the suit must start with a plaint and culminate in a decree; and thirdly, the adjudication must be formal and final and must be given by a civil or revenue court.

12. With these premises, it was contended that the present proceedings were started with a reference Under Section 18 of [Land Acquisition Act, 1894](#) and not with a plaint and those proceedings are not started as a suit, therefore, the award passed thereunder cannot be held to be a decree within the meaning of Section 2(2) of the Code of Civil Procedure and looking to the nature of the award, it must be treated to be an order as distinct from a 'decree. Therefore, the proper fee payable on an appeal against an order shall be governed by Entry- III Schedule-11 annexed to the Act of 1961 and not Under Section 46 read with Entry-I of Schedule-I annexed with the Act 1961.

13. Learned Additional Advocate General has invited our attention to Section 26 of the Land Acquisition Act which declares the award made by the District Judge in a reference proceedings to be a decree within the meaning of Section 2, Clause (2), and Section 2, Clause (9), respectively of the Code of Civil Procedure 1908. In view of the aforesaid Legislative declaration, the award of compensation by the District Judge Under Section 26 has to be considered as a decree under the Code of Civil Procedure, 1908 and, therefore, ad valorem court fee is payable in an appeal filed against a decree on the subject matter of the memo of appeal Section 46 of the Rajasthan Court Fee and Suits Valuation Act, 1961 clearly postulates as to what shall be the subject matter of the memo of appeal arising against any order relating to compensation under any Act for the time being in force for the acquisition of property for public purposes. It inter alia provides that the court fee on the value of subject matter of memo of appeal shall be computed on the difference between the amount awarded and the amount claimed by the appellant. It was urged by the learned Additional Advocate General that Section 46 of the Act of 1961 deals specifically with appeals arising out of the determination of compensation under any Law for the time being in force relating to the acquisition of property for public purposes, therefore, the question of determination of value of subject matter of memo of appeal and levy of court fee on such appeal cannot be referred de hors the provisions of Section 46 of the Act of 1961.

14. Learned Additional Advocate General relied on the aforesaid decision referred to by the learned Single Judge in his judgment and also brought to our notice the decision of the Hon'ble Supreme Court in Indore Development Authority, (AIR 1995 SC 1828) in which it has been held that the appellants were required to pay ad valorem Court fee . on the value of the memorandum of appeal under Sec. 8 of the Act of 1870 payable in an appeal filed Under Section 54 in proceedings arising Under Section 18 of the [Land Acquisition Act, 1894](#).

15. Mr. Samdariya, learned counsel for the appellant urged that the principle enunciated in Diwan Brothers' case (supra) has been approved by the Hon'ble Supreme Court in a later decision relied on by the learned Additional Advocate General and, therefore, the court fees should be determined depending on the facts and circumstances of each case and not by the strait jacket formula.

16. Mr. Samdariya also relies on Section 46 of the Rajasthan Court Fee and Suits Valuation Act, 1961 and in this connection he urged that Section 46 does not say in term that the court fee shall be paid ad valorem on the value of subject matter of the memo of appeal and, therefore, it cannot be assumed from the provisions of Section 46 that on the subject matter of memo of appeal relating to the compensation under any Act for the time being in force for the acquisition of the property for public purposes Court Fees is payable ad valorem.

17. We have given our thoughtful consideration to the rival contentions and the decisions placed before us. It will be apposite to notice that Section 46 of the Act of 1961 (which is pari materia with Section 8 of the [Court Fees Act, 1870](#)) and Section 47 of the Act of 1961 deal with court fee payable in appeals.

18. We may notice here that neither Under Section 46 nor Under Section 47, it has been stated that the court fees shall be payable ad valorem on the subject matter of the appeal though both the provisions relate to levy of court fee on the memorandum of appeal. Section 46 deals specifically with the appeals relating to compensation under any Act for the time being in force for the acquisition property for public purposes, whereas Section 47 deals with appeals arising out from the orders of the Court where the court fee is payable on the subject matter of the appeal as it payable in the court of first instance with certain ancillary matters with which we are not concerned at present. With this, these provisions if read with Schedule-I, providing ad valorem court fees on different pleadings under Article 1 of Schedule-1, ad valorem court fees is payable where proceedings start with plaint or written statement pleading a set-off or counter claim or memo of appeal presented to any Court.

19. This Article by itself does not restrict its operation to the memorandum of appeal referable to any decree passed in a plaint or written statement or a counter claim. Obviously, if one go by simple reading of the provisions, it follows that memorandum of appeal of any kind is amenable to court fees on ad valorem basis on value of its subject matter unless otherwise provided for. Article 2 and 3 of Schedule-I which deal with appeals arising under different enactments in different circumstances too provide for ad valorem court fees with certain adjustment thereof as has been provided in Col. 3 of Schedule-I. In contract, Entry-3 of Schedule-II on which reliance has been placed by the learned counsel for the appellant provides for levy of fixed court fees on a memorandum of appeal from an order inclusive of an order determining any question Under Section 47 or Section 144 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and not otherwise provided for. This is in its literal meaning reference to levy of court fees on memorandum of appeal from an order passed as distinct from a decree under Code of Civil Procedure, Orders against which appeal is provided have been prescribed Under Section 104 and Order 43 of C.P.C. In that sense, in our view, the expression 'order' inclusive of an order determining any question Under Section 476 or Section 144 of the Code of Civil Procedure refers to appealable order as envisaged in C.P.C. as distinguished from Decree under the Code. (For clarification one may notice that on order under Sec. 47 CPC no longer remains included in the definition of 'decree' after the CPC (Amendment) Act of 1976).

20. It cannot also be doubted that expression used in the Legislation for any adjudication by itself cannot be conclusive of its nature as order or decree and whether it shall be subject matter of an appeal from an order or decree.

21. It has been held in Diwan Brother's Case that the term 'decree' used in Schedule-11 Article 11 of the Court Fees Act is referable to a decree as defined in Section 2(2) of the Civil Procedure Code/The use of expression 'decree' for decision of the Tribunal constituted under Displaced Persons (Debts Adjustment) Act, 1951 is not conclusive on the question whether the order passed by the Tribunal under the Act amounted to be a decree or not. It is also pertinent to notice that this question as arisen In light of the Court Fee Act, 1870 in which Article 11 of Schedule-11 prescribing court fees on memorandum of appeal was slightly different its term which may be notice hereunder:-

'Memorandum of appeal when the appeal is not from a decree or an order having the force of a decree, and

is presented to a High Court or Chief Commissioner, or other Chief Controlling Executive or Revenue Authority, the court fees payable is Rs. 2/-.'

22. It may be noticed here that under the Act of 1870 any order which had force of a decree was also subject to ad valorem court fee under and was not subject to fixed court fees under Article 11 of Schedule-II. It cannot be doubted and disputed that in view of clear provisions of Section 26 of the Land Acquisition Act, the award of the District Judge has been declared to be a decree for the purposes of Section 2(2) of the Code of Civil Procedure and even is executable as a decree of the Civil Court. In view of these provisions, even on the premises of the Act of 1870 which was before the Hon'ble Supreme Court in Diwan Brothers case (supra), it is difficult to accept the contention raised by the learned counsel for the appellant that on principle enunciated in Diwan Brothers case under the provisions of the act of 1870, the appeal arising from an order passed in acquisition proceedings relating to the compensation, the court fee would have been payable a fixed fee of Rs. 2/- and would not invite ad valorem court fee. The end conclusion reached by Supreme Court in Diwan Brothers' case on principle enunciated by it by construing the provisions of different Act could not be extended to appeals arising under Land Acquisition Act de hors provision of such Act and specific provision made in Court Fees Act,

23. The very fact that Under Section 46 of the Act of 1961, court fees on the memorandum of appeal relating to payment of compensation under any law relating to the acquisition of property for the public purposes is to be computed on the difference between the amount awarded and the amount claimed by the appellant, takes it out of the realm of fixed court fees under Schedule-II. Requirement of computing the fees on deference of the amount awarded and the amount claimed relates it to Article 1 of Schedule-I which provides for levy of ad-valorem court fees on the subject matter of the appeal. The memorandum of appeal under Article 1 of Schedule-I is not circumscribed by any specific provision to restrict its operation to the appeals under the Code of Civil Procedure against decree or order. Inherent restriction is that it will exclude from its purview any other specific provision. In an appeal under the provision of Land Acquisition Act, in which the proceedings do not start with plaint or written statement pleading set-off or counter claim, memorandum of appeal presented to any Court would not detract from the fact that fee on such appeal is payable on the subject matter of the appeal as envisaged Under Section 46 of the Act of 1961. This High Court has consistently taken the view that memorandum of appeal relating to compensation payable under the Land Acquisition Act attracts ad valorem court fees.

24. The first decision on the issue is by Division Bench of this Court in C. Alexander and Ors. v. The State of Rajasthan (1967 ILR 17 Raj. 78). In the aforesaid case, after raising a dispute, the appellants claimed that their case is covered by Article 3. Sch. II of the Rajasthan Court Fees and Suits Valuation Act, 1961, therefore, fixed court fees has been paid. Ultimately, it was conceded by the learned counsel for the appellants that the award given by the Addl. Collector amounts to a decree according to Sec, 26 of the Rajasthan Land Acquisition Act, 1953 which expressly provides that, 'every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2, Clause (2) and Section 2, Clause (9) respectively by the Code.'

25. The learned Single Judge of this Court in Achal Singh and Anr. v. State of Rajasthan and Ors. (supra), opined on the subject as under;-

'It may be stated that Section 46 is a specific provision providing for fees on memorandum of appeals against order relating to compensation. If any compensation is awarded under any Act and an appeal is preferred against such an order, Section 46 lays down that the fees shall be computed on the difference between the amount awarded and the amount claimed by the appellants. In the fact of this specific provision, in my opinion, Article 3 of Schedule II will have no application. Even under Article 3 of Schedule II an exception has been made for those orders for which provisions are clearly there in the Act. Where nothing is provided in respect of any order, then Article 3 of Schedule II would be attracted. But for orders otherwise provided for in the Act. 3 of Schedule II will have no application. The words 'not otherwise provided for' exclude the

applicability of Article 3 as orders relating to compensation are specifically provided for in Section 46.'

26. This is in consonance with the conclusion reached by us above. In coming to this conclusion, the learned Single Judge has also taken into consideration the like circumstances before the Hon'ble Supreme Court arising in the case of *Diwan Brothers* (supra).

27. Again in *Rajasthan State Industrial Development & Investment Corporation Limited v. State of Rajasthan and Ors.* (supra), after referring to a large number of earlier decisions of different High Courts, apart from Division Bench decision of this Court referred to above, and considering the like contentions raised by the learned counsel for the appellant before the Court, in view of the decision in *Diwan Brothers'* case (supra) by the Hon'ble Supreme Court, this Court opined as under:-

'From a review of the above case law, it would appear that for all purposes the award has to be considered as a decree. So for purpose of appeal as well, the award would be taken to be a decree and ad valorem court fee, therefore, is payable under Schedule-I, Article 1 and the Court-fee is not payable when the award is a decree under Schedule II Article 3 of the Act. The charging section under the Act is Section 20 and Court-fee can be leviable either under the various chapters or under the Schedules. Even when there is no specific section for computation of court-fees in a matter like the present one, then, Schedule 1 Article I as it applies to a case like the present one, can be made applicable. Section 20 of the Act provides that the fee payable under this Act shall be determined or computed in accordance with the provisions of Chapter IV, Chapter VI, Chapter VIII and Schedules I and II, so wherever any of these provisions is applicable, then fee has to be paid accordingly.'

28. The matter came before the Hon'ble Supreme Court in the same manner in *C.G. Ghanshamdas and Ors. v. Collector of Madras*, (AIR 1987 SC 180) in the case arising under the [Requisitioning and Acquisition of Immovable Property Act, 1952](#) (Requisition Act) in which an appeal under Section 11 of the said Act has been filed against the order determining compensation payable in respect of the property requisitioned. Court fee had to be computed in accordance with Section 51 of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, Section 51 of Act of 1955 was couched exactly in the same language as is enacted in Section 46 of the Rajasthan Court Fees and Suits Valuation Act, 1961 or for that matter Section 8 of the [Court Fees Act, 1870](#). The controversy involved in the said case was on the office objection before the Court. The Madras High Court held that on the memorandum of appeal under Section 51 of the Act, ad valorem court fees is payable on the difference of amount of compensation awarded by the Tribunal and the amount claimed by the appellants. In this connection; attention was also drawn of the Court to the use of expression 'order' referred to in Section 51 of the Madras Act. The Court held that the expression 'order' referred to in Section 51 of Act need not be an 'order' of a civil court as defined in Section 2(2) of the Code of Civil Procedure but should be an 'order' relating to compensation under any Act for the time being in force for the acquisition of property for public purposes, therefore, court fee cannot be payable as on a decree. A contention was also raised that Section 11 of the Act of 1952 is not similar to Sub-section (2) of Section 26 of the [Land Acquisition Act, 1894](#) whereunder such award shall be deemed to be a decree and the statement of the grounds of every award a judgment, within the meaning of Section 2, Clause (2), and Section 2, Clause (9) respectively, of the Code of Civil Procedure, 1908.

29. This contention was repelled by the Hon'ble Supreme Court in *C.G. Ghanshamdas's* case (supra) holding that,

'It is relevant to note that in Section 51 of the Act which arises for consideration before us the word 'order' does not appear in isolation. The Section states that the fee payable under the Act on a memorandum of appeal against an order relating to compensation in any Act for the time being in force of the acquisition of property for public purposes shall be computed on the difference between the amount awarded and the amount claimed by the appellants. The 'order' referred to in Section 51 of the Act need not therefore be an 'order' of a civil court as defined in Section 2(2) of the Code of Civil Procedure but should be an 'order' relating to compensation under any Act for the time being in force for the acquisition of property for public purposes.

There is not doubt that the award passed by the Arbitrator under the Act is a formal expression of a decision made by a competent authority which is binding on the parties and it relates to compensation payable under an Act for the time being in force for the acquisition of property for the public purposes. Hence we are of the view that even though the expression 'order' simpliciter has to be understood in the sense in which that expression is defined in Section 2(2) of the Code of Civil Procedure, the word 'order' found in Section 51 of the Act has to be read differently having regard to the words which qualify that expression that section, namely, 'relating to compensation under any Act for the time being in force for the acquisition of properties. The said order need not be an order of a civil Court only. But it can be a statutory order determine compensation for a property acquired under a law of acquisition of property for public purposes. The award made Under Section 8 of the Act satisfies these tests.'

30. Referring to the earlier decisions of Hon'ble Supreme Court in Shadu Gangaram Bhagade's case, (AIR 1971 SC 1887) while considering an appeal Under Section 11 against on 'order' passed by the arbitrator which has not been defined in [Bombay Court Fees Act, 1959](#), the court has approved its decision. The Court noticed that the award of the arbitrator is undoubtedly a formal expression of a decision made by a competent authority. Further it is a decision binding on the parties to the proceedings in which it is made. Therefore the question whether the order in question is executable or not appears to be irrelevant for the purpose of determining the point in issue. It was stated that it was not necessary that award must have force of a decree for the purposes of computing the Court fee leviable on memorandum of appeal in view of all these, the Supreme Court concluded that:-

'Since according to us the appeal before the High Court filed Under Section 11 of the Requisitioning Act falls squarely Under Section 51 of the Act, court fee has to be paid on ad valorem basis as provided in Article 1 of Schedule I to the Act. It follows that the residuary Article i.e. Article 3 (iii)(A)(10)(a) of Schedule II to the Act is not attracted.'

31. The last nail in coffin has been sealed by the later decision of the Hon'ble Supreme Court in Indore Development Authority v. Tarak Singh and Ors., (AIR 1995 SC 1828) related to the question of ad valorem court fee on an appeal filed Under Section 54 of the [Land Acquisition Act, 1894](#) in an appeal from the Madhya Pradesh High Court regarding the aforesaid question and reliance has been placed on a decision of the Supreme Court in C.G. Ghanshamdas's case (supra), the Court said thus:-

'The case on hand stands on a higher footings than the one dealt with in Ghanshamdas's case (AIR 1987 SC 180). Here, the Subordinate. Judge who deals with the reference, is a civil Court under the Central Act to determine, compensation. By operation of Section 26(2), his award is a decree within the meaning of Section 2(2), of C.P.C. It is a formal expression of an adjudication on the compensation awardable or measurement of the land acquired under the Central Act, It is a final adjudication also, unless it can be avoided in any other forum known to law; and it could be. avoided only by filing appeal as prescribed Under Section 54 of the Central Act.....When its illegality is challenged by filing the appeal Under Section 54, the difference of the amount for which appeal is filed, ad valorem Court fee Under Section 8 is required to be paid. Article 11 of Schedule II has no application, since it is expressly covered by Section 8 of the M.P. Court-fees Act.'

32. Section 8 of the M.P. Court-fees Act, which has been quoted, is also pari materia with Section 8 of the [Court Fees Act, 1870](#) and Section 47 of the Rajasthan Court Fees and Suits Valuation Act, 1961.

33. Referring to the Diwan Brothers' case (supra) before the Supreme Court, the Court clearly stated that the contention of the learned counsel that the criteria prescribed under Sub-section (2) of Section 2 of the C.P.C. has not been satisfied, therefore, the order is not a decree, is not accepted in view of the fact that the appeal Under Section 54 was filed against an order determining compensation for the acquisition of property for public purposes under the Act of 1894. Therefore, the order passed by the competent authority is deemed to be a decree within the meaning of Sub-section (2) of Section 2 of C.P.C.

34. In view of the aforesaid, the appeal must fail and is hereby dismissed. The appellant shall pay the deficit

court fee on the valuation of the appeal that may be stated by him in his appeal within four months from the decision of this appeal.

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