

Atri Bai Vs. Arnopoorna Bai

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Court : Kolkata

Decided On : Mar-28-1883

Reported in : (1883)ILR9Cal838

Judge : Prinsep and ;O'Kinealy, JJ.

Appellant : Atri Bai

Respondent : Arnopoorna Bai

Judgement :

Prinsep, J.

1. A preliminary objection has been raised to the hearing of this appeal that the law (Section 39 of the Land Acquisition Act of 1870) does not provide for a second appeal; and that only certain provisions of the Code of Civil Procedure, among which the chapter relating to appeals is not to be found, are extended to proceedings under that Act, The case falls under Part IV of the Land Acquisition Act, and relates to the apportionment of the compensation awarded. The limitation of the application of the Code applies only to Part VII. Further it appears to us from the very nature of the dispute between the parties that these proceedings must be regarded as a suit. In the next place Section 39 declares that in cases like the present case 'the appeal shall lie in the first instance to the District Judge,' from which it would seem that a further appeal was contemplated by the Legislature. In any case, however, having regard to the nature of the proceedings and the powers

conferred on us by law in suits, we should not be inclined to limit our jurisdiction without any express words in any law to that effect.

2. On the merits of the case there is no reason to question the correctness of the conclusion arrived at by the lower Appellate Court.

3. The appeal is dismissed with costs.

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