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SHRI IRSHAD ALI AND ORS.

v.

HAZI ABDUL SUKHUR MOZUMDAR AND ORS.

JULY 7, 1997

B

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

*Land Acquisition Act, 1894:*

C

*Compensation—Award of—Reference Court enhancing the compensation—High Court further enhancing the compensation—Application for review of the High Court's order dismissed—On appeal held, since the party had not challenged the award of the reference court and the award has become final it is not entitled to higher compensation.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4460 and 4461 of 1997.

From the Judgment and Order dated 8.10.93/12.7.96 of the Assam High Court in R.A. No. 1/95 and F.A. No. 8 of 1989.

Shakeel Ahmed Syed for the Appellants.

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Vijay Hansaria, Smita Shankar and S.K. Jain for the Respondents.

The following Order of the Court was delivered :

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

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This appeal arises against the judgment 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.

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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, 2 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

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the respondent No. 1, namely, 3 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, 5 gondas, 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 not entitled to any higher compensation for the extent of 1/3rd share.

The appeals are therefore, dismissed. No costs.

G.N.

Appeals dismissed.