

APPELLATE CIVIL

Before Harnam Singh, J.

SHAHDEV SINGH,—Appellant.

v.

THE STATE,—Respondent.

First Appeal from Order No. 20 of 1955

1955
Dec., 28th

Court fee—Award given under the Land Acquisition Act—Appeal against the award—Court fee payable on the memorandum of appeal—Whether ad valorem court fee to be paid or fixed court fee under Article 11 of Schedule II—Land Acquisition Act (L of 1894)—Section 26(2)—Code of Civil Procedure (V of 1908)—Sections 2(2) and 2(9)—Court Fees Act, Schedule II, Article 11.

Held, that ad valorem court fee was payable on the memorandum of appeal in an appeal against an award given under the Land Acquisition Act.

Punjab Province v. Raja Dhian Singh (1), distinguished and Ganesh Das v. Kanthu and others (2), followed.

First appeal from the order of Senior Sub-Judge, Jullundur, dated 30th August, 1954.

H. R. SODHI, for Appellant.

S. M. SIKRI, Advocate-General, for Respondent.

Harnam Singh,
J.

HARNAM SINGH, J. Basing himself on *Ganesh Das versus Kanthu and others (2)*, Mr. Sarv Mittar Sikri urges that on the memorandum of appeal ad valorem court-fee is leviable.

Section 26(2) of the Land Acquisition Act 1894, provides that every award given under the Act 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 of the Code of Civil Procedure, 1908.

(1) 1955 P.L.R. 45
(2) A.I.R. 1935 Lah. 448

Mr. Hans Raj Sodhi maintains that the memorandum of appeal was liable to court-fee of rupees 4 under Article 11 of Schedule II of the Court-fees Act. For authority on this point reference is made to *Punjab Province versus Raja Dhian Singh* (1). Shahdev Singh
v.
The State
Harnam Singh,
J.

In *Punjab Province v. Raja Dhian Singh* (1), Teja Singh, J., observed :—

“In the case of an order of an arbitrator appointed to determine the amount of compensation under section 19 of the Defence of India Act there is no provision in the Act laying down that it can be executed like a decree or that it can be enforced otherwise.”

In *Punjab Province v. Raja Dhian Singh* (1), the point that arose for decision was the proper court-fee to be paid on memorandum of appeal from an order of the arbitrator under the Defence of India Act.

In my judgment, on the memorandum of appeal in the present case *ad valorem* court-fee is leviable.

In these circumstances, I order the appellant to make up the deficiency in court-fee within two months from today.