

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA

Civil Appellate Jurisdiction

Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FAT No. 605 of 2019

+

CAN 6 of 2023

+

CAN 7 of 2023

+

CAN 8 of 2024

State of West Bengal

Vs.

Subhash Ray Chowdhury

With

FAT No. 606 of 2019

+

CAN 5 of 2023

+

CAN 6 of 2023

+

CAN 7 of 2024

State of West Bengal

Vs.

Jagari Banerjee

With

FAT No. 608 of 2019

+

CAN 6 of 2023

+

CAN 7 of 2023

+

CAN 8 of 2024

State of West Bengal

Vs.

Kajal Roy Chowdhury

With

FAT No. 609 of 2019

+

CAN 5 of 2023

+

CAN 6 of 2023

+

CAN 7 of 2024

State of West Bengal

Vs.

Prabhat Roy Chowdhury

With

FAT No. 610 of 2019

+

CAN 7 of 2023

+

CAN 8 of 2023

+

CAN 9 of 2024

State of West Bengal

Vs.

Bimal Kumar Ghosh and others
(Gouri Bala Ghosh since deceased)

With

FAT No. 615 of 2019

+

CAN 5 of 2023

+

CAN 6 of 2023

+

CAN 7 of 2024

State of West Bengal
Vs.
Sabera Khatun and others

With

FAT No. 617 of 2019

+

CAN 7 of 2023

+

CAN 8 of 2023

+

CAN 9 of 2024

State of West Bengal
Vs.
Manika Bhattacharya

With

FAT No. 618 of 2019

+

CAN 5 of 2023

+

CAN 6 of 2023

+

CAN 7 of 2024

+

CAN 8 of 2024

State of West Bengal
Vs.
Ranajit Kumar Mukherjee

With

FAT No. 619 of 2019

+

CAN 6 of 2023

+

CAN 7 of 2023

+

CAN 8 of 2024

State of West Bengal

Vs.

Sunirmal Sengupta and another

For the appellant/State : Mr. Rabindra Narayan Dutta
Mr. Hare Krishna Halder

For the respondents : Mr. Debayan Bera
Mr. Sakti Prasad Chakraborty

Heard on : May 1, 2025.

Judgment on : May 1, 2025.

Sabyasachi Bhattacharyya, J.:

1. The present set of appeals has been preferred by the State of West Bengal against awards of enhancement of compensation on reference under Section 18 of the Land Acquisition Act, 1894 arising out the same notification as well as the same process of acquisition.

2. Learned counsel for the State, at the outset, points out that the learned Trial Judge passed the impugned judgments in all the matters on the basis of no admissible evidence at all, since no document was exhibited by either of the parties in the court below.
3. Learned counsel submits that although the certified copies of three judgments were produced in the court below, those documents were not formally proved by way of evidence, nor marked as exhibits. As such, it is contended that the impugned judgments and decrees in all the appeals are vitiated by contravention of the provisions of the Indian Evidence Act, 1872 (in short, "1872 Act") as well as the Code of Civil Procedure (hereinafter referred to as "Code"), insofar as the judgments are based on no evidence at all.
4. Under similar circumstances, it is contended that when certain documents were sought to be relied on in connection with a different land acquisition case by one of the parties, a coordinate Bench of this court had remanded the matter and directed the parties to adduce evidence. Such unreported judgment dated April 13, 2023 passed in FA 47 of 2005, which is cited before us, recorded that it appeared that documents

relied on by both the parties were marked as exhibits by dispensing formal proof thereof. The parties did not adduce any evidence. Under such circumstances, the Division Bench observed that it felt that the matter was required to be heard on the evidence and accordingly, set aside the impugned judgment and directed the learned Trial Judge to hear the matter afresh, granting the parties liberty to adduce evidence, both oral and documentary, in the form of affidavit of evidence by both the parties.

5. Learned counsel for the State also relies on a judgment of the Supreme Court in the matter of *Sanjay Kumar Singh vs. State of Jharkhand* reported at 2022 (2) Indian Civil Cases 746 (SC) in support of the proposition that allowing an application filed under Order XLI Rule 27 of the Code does not lead to the result that the additional documents/additional evidence can be straightaway exhibited; rather, the applicants would have to not only to prove the existence, authenticity and genuineness of the said documents, but also the contents thereof, in accordance with law.
6. It is submitted by the State that in the present cases, the referring claimants, being the respondents, have filed

applications under Order XLI Rule 27 of the Code of Civil Procedure, thereby seeking to produce as additional evidence the certified copies relied on by the learned Trial Judge. Even if such documents are permitted to be adduced as additional evidence, it is submitted by the State that the matter has to be remanded to the trial court and evidence has to be led formally to prove the said documents.

7. Learned counsel appearing for the referring claimants/respondents submits that the respondents have preferred separate applications under Order XLI Rule 27 of the Code of Civil Procedure for abundant caution, seeking to produce the said certified copies. However, at the same time, it is pointed out that the certified copies of the judgments-in-question were produced in connection with one of the matters in the court below and since the matters were heard analogously, such production sufficed for the purpose of the court to deal with the said documents and rely on the same with regard to all the cases.
8. It is further reiterated that since all the proceedings arise out of the self-same acquisition procedure as well as the same notification, the judgments governing the previous

compensation cases, which was at the instance of a company, which was also one of the referring claimants, should govern the present cases as well.

9. Upon hearing learned counsel for the parties, we find that, in the present case, the learned Trial Judge placed reliance on certain judgments. It was recorded by the learned trial Judge that all the referring claimants in the instant cases filed a judgment dated November 18, 2016 passed by this Court in connection with LRA 18 of 2002 (V), in FA 65 of 2014 filed by the judgment-debtor/State, as well as cross appeals filed by the referring claimants.
10. The court further recorded that being aggrieved by the judgment passed by this Court, the judgment-debtor/State had preferred an appeal before the Supreme Court, which was ultimately dismissed by the Supreme Court, and as such, the judgment delivered by the High Court attained finality. It was further recorded by the learned Trial Judge that the said judgment passed by this Court and finally affirmed by the Supreme Court was in respect of the self-same notification, the same project, the same Mouza as well as the same award involved in Collector's Case No. LA 11/50 of 1988-89.

11. Having recorded so, the learned Trial Judge referred to the certified copies of the said judgment of this Court. In the judgment passed by the High Court in FA 65 of 2014, which arose out of the self-same notification and acquisition process, the Court clearly delineated the parameters on which the valuation was to be assessed and also passed necessary directions to the following effect:

“1. The valuation of solid lands are hereby fixed at Rs.1,00,406/= per cottah.

2. The valuation of tank and doba are fixed at Rs.50,203/= per cottah.

3. The referring claimants/cross objectors are entitled to get solatium @ 30% on the entire market value.

4. The referring claimants/cross objectors are entitled to get Additional Compensation @ 12% per annum on the entire market value from the date of possession (12.04.1989) to the date of the award (17.09.2001).

5. The referring claimants/cross objectors are entitled to get interest on the entire compensation @ 9% per annum for one year from 17.09.2001 and thereafter @ 15% per annum on the entire compensation”.

12. In such circumstances, the learned Trial Judge relied on the judgment of this Court passed in FA 65 of 2014, which was affirmed by the Supreme Court vide order dated December 13, 2017, where the Supreme Court came to the conclusion that no ground of interference was made out in exercise of its jurisdiction under Article 136 of the Constitution of India and accordingly dismissed the Special Leave Petition filed against the judgment of this Court.
13. The State now alleges that in view of the certified copies of this Court and the Supreme Court having not been formally proved, the learned Trial Judge acted without jurisdiction in relying on the same.
14. However, it is well-settled that procedure is the handmaid of justice. The courts have to distinguish between certain procedural norms which are set in stone and cannot be deviated from, since those hit at the root of the matter and those which are, although procedural in nature, directory in their form and content.
15. Certified copies of public documents under Section 63 of the 1872 Act include certified copies given under the provisions thereafter contained.

16. Section 64 of the 1872 Act enumerates cases in which secondary evidence relating to documents may be given.
17. Furthermore, Section 42 of the 1872 Act provides that judgments, orders or decrees other than those mentioned in Section 41 are relevant if they relate to matters of public nature relevant to the enquiry; however, such judgments, orders or decrees are not conclusive proof of what they state.
18. In the present cases, the question is as to the judgment passed by the High Court on the previous occasion in connection with the self-same notification and acquisition process was relevant or not. Since the said judgment not only relates to matters of public nature but is also directly relevant to the present enquiry, we are of the opinion that the production of the certified copy of the said judgment was sufficient compliance of the provision of the 1872 Act for the learned Trial Court to look into such certified copies.
19. It is trite law that if several matters are taken up analogously and evidence is also adduced in a composite manner, the production of evidence in one of those matters tantamounts to production of the same in all the matters.

20. Thus, the rigours of the ratio laid down in *Sanjay Kumar (Supra)* are not applicable in the present case. In fact, we hereby find that the applications filed by the respective respondents in the present appeals under Order XLI Rule 27 of the Code are redundant since the certified copies of the relevant judgments were already before the learned Trial Judge when the learned Trial Judge passed the impugned judgments and decrees.
21. Thus, there is no further necessity to permit production of the self-same certified copies by way of additional evidence in the present appeals.
22. Insofar as the unreported co-ordinate Bench judgment cited by learned counsel for the State/appellant is concerned, in the said matter, it is not recorded anywhere that certified copies of the judgments comprised of the evidence which was produced in those cases.
23. Rather, it transpires that the relevant documents were comparable instruments and sale deeds.
24. Thus, the facts of the said cited case are diametrically opposite to the present.

25. In the event sale deeds were sought to be produced for the first time before this Court and were not exhibited in the Trial Court, it would undoubtedly provide an occasion for this Court to consider whether the deeds could be directed to be produced as additional evidence, in which case we would look at a remand scenario.
26. However, as opposed to the same, the material adjudication had already been made by this Court in FA 65 of 2014 in respect of the self-same notification and acquisition process.
27. What remained for the learned trial Judge to look into was only the certified copy of the said judgment, which was affirmed up to the Supreme Court, and merely to reproduce the salient features of the same in his judgment, since the notification and acquisition process as well as the project for which acquisition was made were the same in the said judgment and the present cases and this court had already conclusively determined all the parameters of enhancement of compensation in the previous appeal. The learned Trial Judge precisely did so and, as such, we do not find any occasion to find fault in or interfere with the same.

28. Accordingly, FAT 605 of 2019, FAT 606 of 2019, FAT 608 of 2019, FAT 609 of 2019, FAT 610 of 2019, FAT 615 of 2019, FAT 617 of 2019, FAT 618 of 2019 and FAT 619 of 2019 are dismissed on contest without any order as to costs, thereby affirming the judgments and awards impugned in each of those.
29. Consequentially, all the connected applications filed in connection with the aforementioned appeals stand disposed of as well.
30. Deposits made by the State/appellant in connection with each of the appeals with the learned Registrar General, along with interest accrued thereon, shall be disbursed in favour of the respective claimants/respondents in each of the appeals, as and when so approached, after deduction of the statutory dues.
31. In the event even after such disbursal there is still some balance awarded amount remaining unpaid, it will be open to the claimants/respondent to levy execution in the court below and/or to proceed with their existing execution cases, if pending, in order to realize such balance amount.

32. Formal decrees be drawn up accordingly in each of the appeals.
33. Urgent photostat certified copy of the order, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)