

## APPELLATE CIVIL.

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*Before Sir Lawrence H. Jenkins, K.C.I.E., Chief Justice, and  
Mr. Justice N. R. Chatterjea.*

HASUN MOLLA

v.

TASIRUDDIN.\*

1911

Nov. 22.

*Appeal—Land Acquisition—“Award”—Refusal to restore claim-case, if an  
award—Land Acquisition Act (I of 1894), s. 54.*

An order of the Special Land Acquisition Judge, refusing to restore a claim-case by setting aside a decree passed *ex parte* for default of the claimant, is not an “award” and does not come under s. 54 of the Land Acquisition Act.

An appeal does not, therefore, lie against such an order.

APPEAL by the petitioners, Hasun Molla and others, for restoration of a claim-case disposed of *ex parte*.

The petitioners’ case was that they were prevented from appearing on the date fixed for the hearing of the case owing to the laches of their pleader’s *mohurrir*, who had not informed them of the date fixed for the hearing of the case, and that this, in the circumstances of the case, should be regarded as “sufficient cause” for their non-appearance. The Special Land Acquisition Judge did not believe the petitioners’ case to be true, nor that the circumstances furnished sufficient grounds for the revival of the original case. The application was therefore rejected.

The petitioners thereupon preferred this appeal to the High Court.

\* Appeal from order, No. 302 of 1910, against the order of Arthur Goochey, Special Land Acquisition Judge of 24-Pargannas, dated June 6, 1910.

1911

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*Babu Bhupendra Chandra Guha*, for the respondents, raised a preliminary objection that no appeal lay. He said that an appeal could lie only under s. 54 of the Land Acquisition Act, and that unless there was an "award," no appeal lay under the section. A refusal to restore a case is not an "award."

*Babu Dharendra Lal Khastgir*, for the appellants. The refusal was a final order and had the force of an "award." It was, therefore, appealable.

JENKINS C.J. AND CHATTERJEA J. The right of appeal in proceedings before the Court under the Land Acquisition Act of 1894 is defined by section 54. Therefore we have to see whether the order, of which complaint is now made, is an award or any part of an award. That has not been and could not be contended, and therefore no appeal lies. We must accordingly dismiss the appeal with costs.

S. M.

*Appeal dismissed.*