

a Special Judge who is not regulated by any particular procedure must be deemed to be in his own discretion.

Mathra Dass  
v.  
Om Parkash  
and others

After a careful consideration of the several authorities which have been cited before me I entertain no doubt in my mind that in the absence of a restraining provision, a Rent Controller or a District Judge acting under the provisions of the Rent Restriction Act is at liberty to follow any procedure that he may choose to evolve for himself so long as the said procedure is orderly and consistent with the rules of natural justice and so long as it does not contravene the positive provisions of the law. The elementary and fundamental principles of a judicial enquiry should be observed but the more technical forms discarded.

Bhandari, C. J

For these reasons I would accept the petition, set aside the order of, the learned District Judge, direct him to implead the sons of the deceased landlord as respondents and to hear the case in accordance with law. The parties have been directed to appear before the learned District Judge on the 15th October, 1956. The petitioner will be entitled to the costs of this Court.

#### APPELLATE CIVIL

*Before Bhandari, C.J. and Khosla, J.*

*v.*

GOPAL SINGH,—Appellant

THE PUNJAB STATE AND OTHERS,—Respondents

**Letters Patent Appeal No. 46 of 1954.**

*Letters Patent Clause 10—Workmen's Compensation Act (VIII of 1923)—Section 30—Decision of a single Judge on appeal under section 30 of the Workmen's Compensation Act—Whether a judgment from which an appeal will lie under clause 10 of the Letters Patent.*

1956

Sep., 18th

*Held*, that an order passed by a Judge of the High Court on appeal against an award given by a Commissioner appointed under the Workmen's Compensation Act is not a judgment and so no appeal lies under clause 10 of the Letters Patent.

*Letters Patent Appeal under clause 10 of the Letters Patent, against the judgment, dated the 17th May, 1954, passed by Hon'ble Mr. Justice Kapur, in F.A.O. 92 of 1953, entitled Gopal Singh v. The Punjab State and others.*

*(Original Suit No. 1, decided by Shri Jhanda Singh, Compensation Commissioner, Ambala, dated the 26th June, 1953.)*

H. L. SARIN, for Appellant.

M. C. SUD and H. S. GUJRAL, for the State for Respondent.

#### JUDGMENT.

Khosla, J.

**KHOSLA, J.**—In this case a preliminary objection regarding the competence of the appeal has been raised by Mr. Mehr Chand Sud on behalf of the respondent. He contends that no appeal under clause 10 of the Letters Patent is competent in this case. An award by a commissioner appointed under the Workmen's Compensation Act was challenged in appeal filed under section 30 of the Workmen's Compensation Act. Kapur, J., sitting singly heard the appeal and the question is whether the decision of Kapur, J. can be considered a judgment from which an appeal to two Judges lies under clause 10 of the Letters Patent. The argument of Mr. Sud is that the Commissioner appointed under the Workmen's Compensation Act is not a Court and is only a Tribunal. The order which he makes is an award. The order made by a Judge of this Court on an appeal preferred under section 30 is also an award and not a judgment and therefore no appeal lies under clause 10 of the Letters Patent.

Mr. Sud had brought to our notice a direct authority on this point given by the Nagpur High Court.

This is *Secretary of State v. Mt. Geeta* (1). In this case the learned Judges of the Nagpur High Court considered a number of rulings having a bearing on the matter and referring in particular to *Rangoon Botatoung Co., Ltd., v. Collector Rangoon* (2), a Privy Council decision, came to the conclusion that an order passed by a Judge of the High Court on appeal against an award given by a Commissioner appointed under the Workmen's Compensation Act is not a judgment and so no appeal lies under the Letters Patent.

Gopal Singh  
v.  
The Punjab  
State  
and others  
—  
Khosla, J.

The question for our decision really is whether the order of Kapur, J., can be considered to be a judgment or not. It has been held in more than one case that where proceedings are taken under the Land Acquisition Act and an award is made, and against this award an appeal is brought to the High Court, the order of the High Court is not a judgment. This was held as long ago as 1912 by the Privy Council in *Rangoon Botatoung Co. Ltd. v. Collector Rangoon*, (2). In that case the Privy Council noticed that the Land Acquisition Act provided for an appeal to the High Court just as section 30 of the Compensation Act provides for an appeal to the High Court against the award of the Commissioner, but since there was no specific provision for a second appeal, no appeal to the Privy Council would lie. The *ratio decidendi* of that case was that the order passed by the High Court on appeal was not a judgment within the meaning of Letters Patent and was only an order or an award. There are several other cases on this point and many of them have been noticed in the Nagpur decision referred to above. A reference may be made in particular to *Manavikraman Tirumalpad v. The Collector of the Nilgiris* (3), a case dealing with the

(1) A.I.R. 1939 Nagpur 122  
(2) I.L.R. (1912) 40 Cal. 21  
(3) I.L.R. (1918) 41 Mad. 943

Gopal Singh v. The Punjab State and others

provisions of the Land Acquisition Act. The Madras High Court held that the decision of the High Court upon an appeal against an award given under the Land Acquisition Act was not a judgment.

Khosla, J.

There is no decision to the contrary and Mr. Sarin has not been able effectively to challenge the preliminary objection raised by Mr. Sud. I am, therefore, clearly of the opinion that the order passed by Kapur, J., cannot be deemed to be a judgment and therefore no appeal against it lies under clause 10 of the Letters Patent. This appeal must, therefore, fail and I would dismiss it with costs.

Bhandari, C. J. BHANDARI, C. J.—I agree.

APPELLATE CRIMINAL

*Before Khosla and Falshaw, JJ.*

BINDRA BAN,—*Convict-Appellant*

*v.*

THE STATE,—*Respondent*

**Criminal Appeal No. 73 of 1956.**

1956  
Sept. 26th

*Prevention of Corruption Act (II of 1947)—Section 5(1) (c)—Validity of—Whether intravires of Article 14 of Constitution—Indian Evidence Act—(I of 1872)—Section 114—Presumption under—Public Servant charged with misappropriating large sums of money—Possessing pecuniary resources disproportionate to his known source of income—Effect of.*

*Held*, that section 5(1) (c) of the Prevention of Corruption Act is intra-vires and does not offend against the provisions of Article 14 of the Constitution.

*Held further*, that when a public servant is charged with criminal misappropriation of a large sum of money and he is found to have in his possession pecuniary resources which he could not have acquired honestly, the