

Tehmina and Others

Vs

M.R. Mistry and Others

Civil Appeals Nos. 1123-1124 of 1981

(Syed M. Fazal Ali, R.B. Misra JJ)

27.03.1981

JUDGMENT

1. Having heard learned counsel for the parties and having gone through the judgments of the High Court and the trial court and after perusing the Commissioner's report, we find that the compensation fixed by the High Court errs on the side of inadequacy. In view of the Commissioner's report and the nature of the trees planted by the appellant, he was entitled to a much higher compensation than the one fixed by the High Court.

2. For these reasons, therefore, the appeal is allowed only to this extent that the compensation which the appellant is entitled to is increased to Rs 35,000, as awarded by the trial court. It appears that a sum of Rs 11,800 has already been deposited by the respondents. The respondents are directed to deposit the balance of the amount to make up to Rs 35,000 in the trial court within two months from today. The trial court is directed to conclude the enquiry regarding mesne profits within two months from today as far as practicable, without giving unnecessary adjournments to any of the parties. The entire amount deposited in the trial court towards compensation will be adjusted against the mesne profits, if any, as awarded by the trial court or confirmed by the High Court.

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