

**(2010) 10 GUJ CK 0082**

**In the Gujarat High Court**

**Case No :** Special Civil Application No. 11222 of 2010

Fatmabegum Akbarali and Others

APPELLANT

Vs

Special Land Acquisition Officer and Another

RESPONDENT

**Date of Decision :** 26-10-2010

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Land Acquisition Act, 1894 — Section 4

**Citation :** (2010) 10 GUJ CK 0082

**Hon'ble Judges :** D.H. Waghela, J;Abhilasha Kumari, J

**Bench :** Division Bench

**Advocate :** G.M. Amin and Sheeja G. Nair, for the Appellant; Trusha K. Patel, learned Asst. Government Pleader, for the Respondent

**Final Decision :** Allowed

## Judgement

Abhilasha Kumari, J.—Rule. Ms. Trusha K. Patel, learned Assistant Government Pleader, waives service of notice of Rule on behalf of the Respondents. On the facts and in the circumstances of the case, and with the consent of the learned Counsel for the respective parties, the application is being heard and finally decided today.

2. In this petition preferred under Article 226 of the Constitution of India, the Petitioners have, inter alia, prayed for a direction to the learned Principal Civil Judge (S.D.), Gandhinagar to decide Land Reference Case No. 809 of 2009 and, at the same time, to transfer Land Reference Case No. 809 of 2009 to the appropriate Court.

3. From the facts of the case, as narrated in the petition, it emerges that the Petitioners were owners and occupiers of land bearing Survey Nos. 145/3A and 145/3B situated in village Usmanabad, Taluka Kalol, District Gandhinagar. The said land was proposed to be acquired for the purpose of construction of Canal for Narmada Yojana. Notification u/s 4 of the Land Acquisition Act, 1894 ("the Act" for short) was published in the Government Gazette on 22-9-1986. After

completion of other statutory formalities, the Award was declared by the Land Acquisition Officer on 16-3-1989. Not being satisfied with the amount of compensation awarded, the Petitioners preferred a Reference Application on 20-3-1989 in the District Court, Ahmedabad Rural, which was registered as Land Reference Case No. 625 of 1991. Other persons, whose lands were similarly acquired, had filed References before the learned Assistant Judge, Mehsana, which were decided by order dated 29-10-1998. As the case of the Petitioners was submitted to District Court, Ahmedabad, it remained pending and was not decided along with the cases of other claimants. On the basis of an application made by Respondent at Exh.13 in Land Reference Case No. 625 of 1991, before the learned Special Judge (LAR) Ahmedabad (Rural), the case was transferred to District Court, Mehsana by order dated 18-3-2002, where it was registered as LAR Case No. 189 of 2002. Thereafter, a third party gave an application at Exh.23 for being joined as party, claiming to be the tenant of the land in question. The matter remained pending before the Court at Mehsana, and no order was passed. The case was then transferred to Kalol, to the Court of Civil Judge (SD) where, once again, a new number was given to it, being LAR Case No. 228 of 2004. The case remained pending, and despite the application given by Ehmedali Bakarali, one of the claimants, who was a senior citizen, for expediting the matter, the case was not decided. Another party preferred an application for joining as party before the Court at Kalol, which is still pending. Thereafter, for some reason, the matter was transferred from Kalol to the Court of learned Principal Civil Judge (SD), Gandhinagar, where it is registered as Reference Case No. 809 of 2009, and is still pending. It is in the above factual scenario that the Petitioners have preferred the petition.

4. Mr. G.M. Amin, learned advocate has submitted that during the pendency of the case, the original claimant Ehmedali Bakarali, being 80 years of age, has expired on 30-5-2009 and his legal heirs are now on record. Reference Cases of other claimants, whose lands have been acquired along with those of the Petitioners, have long since been decided, and they have received compensation in the year 1998. However, the case of the Petitioners is being transferred from one Court to another, without any reason, and is pending for about 21 years.

5. During the course of hearing we had inquired from the learned Assistant Government Pleader whether it would be possible to award compensation to the Petitioners at the rate at which it has been awarded to other similarly situated persons. However, the learned Assistant Government Pleader, after taking instructions, has submitted that the Petitioners would have to wait until the Reference is decided by the Court at Gandhinagar.

6. We cannot help but notice that even after a long wait of 21 years, the Reference application filed by the Petitioners is still pending adjudication, whereas other similarly situated persons, whose lands were acquired alongwith those of the Petitioners, have received compensation in the year 1998. For some inexplicable reasons the case of the Petitioners is being transferred from Court to

Court, without any decision being taken. Needless to say, the chequered history of this case gives rise to the conclusion that the Petitioners have been gravely prejudiced by this course of events. It is, to say the least, a sorry state of affairs which casts a shadow on the administration of justice. Though time consumed by delay cannot be brought back, we hope the directions we propose to issue will now rectify the situation. Looking to the prayers made by Petitioners we are not inclined to grant the prayer for transfer of the case to any other court, as that would only add to the woes of the Petitioners. However, in the interest of justice, we make the following order:

(a) The learned Principal Civil Judge (SD), Gandhinagar is directed to decide Land Reference Case No. 809 of 2009 filed by the Petitioners, as expeditiously as possible and preferably within a period of three months from the date of receipt of a copy of the order of this Court.

(b) The parties will co-operate in the Trial Court and not seek any unnecessary adjournments. The Trial Court shall not grant needless adjournments to parties, except when strictly necessary.

7. The petition is partly-allowed. Rule is made absolute to the above extent. There shall be no orders as to costs.