

(2011) 07 GUJ CK 0133
In the Gujarat High Court

Case No : First Appeal No's. 3220 and 3221 of 2005

General Manager

APPELLANT

Vs

Patel Bhikhabhai Somdas and Another

RESPONDENT

Date of Decision : 18-07-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2011) 07 GUJ CK 0133

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : R.R. Marshall, for the Appellant; Government Pleader for Defendant 2, for the Respondent

Final Decision : Allowed

Judgement

K.S. Jhaveri, J.—These appeals are directed against the common judgment and award dated 5.11.2004, passed by the learned Civil Judge(S.D.), Mehsana, in Land Reference Case Nos. 3593/2003 & 3954/2003, whereby, the said references were partly allowed and directed the opponent-present Appellant to pay an amount of Rs. 57.00 per sq. meter as compensation for the acquired land of the original claimants with 30% solatium and further directed to pay interest @ 12% p.a. from the date of publication to notification u/s 4 of the Act up to the date of award passed by the land acquisition Officer in LAQ Case No. 34 of 1998 with running interest @ 9% p.a. for the period of one year from the date of taking over of possession and further to pay interest @ 15% p.a. on the above determined amount from the date of taking possession till the entire amount be fully paid or deposited.

2. The facts in brief are that Appellant No. 2 herein published the notification under the provision of Section 4 of the Land Acquisition Act, on 16.2.1999, for acquiring the lands situated at Village Dhanpura, Taluka & District Mehsana, for the public purpose. The Notification u/s 6 was published on 20.1.2000. Thereafter, the lands of the original claimants were acquired by the competent

authority. Ultimately, the competent authority fixed the Market value of the Block No. 340 and 341 at Rs. 5.50 Ps. However, being aggrieved by the same, the original claimants raised dispute, which, ultimately, culminated into references before the Court below. The reference Court partly allowed the references by impugned judgment and order dated 05.11.2004 and passed the award as stated herein above against which the present appeal is filed by the present Appellant-ONGC.

3. Heard the learned advocates for respective parties.

4. Mr. R.R. Marshal, learned Advocate for the Appellant submitted that the reference Court has committed error in relying upon the sale instances of adjoining village Santhal. He pointed out that the learned Special Land Acquisition Officer has decided L.A.Q Case No. 68 of 1984, whereby he awarded Rs. 10/-per Sq. metre for the acquired land for which Section 4 was published on 7th August, 1986. Therefore, calculating increase at 10% per year, considering the period of 13 years, the trial Court awarded Rs. 34.48/-per sq. meter.

5. Learned Senior Advocate for the Appellant has fairly conceded with the earlier award relied upon by the Respondents to the extent of jurisdiction, but relying on the documents produced at Exh.25, for sale instance of adjoining and neighboring village, it is clear that distance between the two villages i.e. Dhanpura and Santhal is of 2 Kms. Therefore, the award amount Rs. 57/- per sq. metre is on higher side.

6. As a result of hearing and upon persual of the record, I am of the opinion that the contention raised by learned Advocate for the Appellant is required to be accepted as relying on the sale instance of the village Santhal, the Reference Court could not have determined market value more than Rs. 35/-per Sq. meter.

7. Accordingly, the award is reduced to Rs. 35 per Sq. meter in stead of Rs. 57/-per sq. meter. The difference amount already deposited will be refunded to the Appellant. The appeals are allowed to the aforesaid extent.