

(2010) 12 GUJ CK 0085

In the Gujarat High Court

Case No : First Appeal No"s. 2335 to 2336 of 2002

General Manager

APPELLANT

Vs

Speical Land Acquisition Officer and Another

RESPONDENT

Date of Decision : 03-12-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 96
Land Acquisition Act, 1894 — Section 35, 35(3), 54
Limitation Act, 1963 — Article 137

Citation : (2010) 12 GUJ CK 0085

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

Bench : Single Bench

Advocate : Ajay R. Mehta, for the Appellant; Neeraj Soni, AGP for Defendant 1, for the Respondent

Final Decision : Allowed

Judgement

K.S. Jhaveri, J.—These appeals at the instance of State Government u/s 54 of the Land Acquisition Act read with Section 96 of CPC are against the judgment and award dated 08/12/1999 passed by the learned 5th Joint Civil Judge (S.D.), Mehsana in Land Acquisition Reference No. 511 of 1999 to 512 of 1999.

2. The Appellant had acquired certain land on temporary basis of the original claimants u/s 35 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act). After following procedure the Land Acquisition Officer vide his order awarded compensation crop compensation and has further been pleased to award rental compensation at the rate of 1.10 per sq. mtr. in LAQ Case No. 23 of 1994 per year. Feeling aggrieved by the said decision, the claimants filed references before the learned 5th Joint Civil Judge (S.D.), Mehsana claiming additional rental compensation at the rate of Rs. 4/-per sq. mtr. per year. The learned 5th Joint Civil Judge, Mehsana has awarded additional compensation at the rate of Rs. 1.90 per sq. mtr. per annum. It is against the said award the present appeals have been filed.

3. Learned Advocate for the Appellant submitted that the issue involved in these appeals is squarely covered by the ratio laid down in the case of Oil and Natural Gas Corporation Ltd. v. Sankarji Hemaji and Anr. [2008] 17 GHJ (523).

The operative part of the said judgment reads as under:

41. Similarly, event he conduct and the action of the then Special Land Acquisition Officer, who has referred the references applications in more than 100 cases to the reference court, though the applications for reference were filed after a period of more than 20 years, is also required to be considered seriously at the hands of Government. Under the circumstances, Chief Secretary, Revenue Department is directed to hold necessary inquiry against the concerned Special Land Acquisition Officer with regard to his conduct and actions. Registry is directed to communicate this order to the Chief Secretary, Revenue Department, State of Gujarat for compliance.

42. For the reasons stated herein above, all the appeals succeed and are allowed with costs which is quantified at Rs. 5000/- (Rupees Five Thousand only) per each appeal. The impugned common judgment and award dated 15.10.2005 passed by the learned Principal Senior Civil Judge, Mehsana (Mr. J.R. Shah) inland Reference Case Nos. 3780 to 3784 of 2003 is hereby quashed and set aside and it is held that:

[i] The reference applications submitted by the original claimants were not maintainable.

[ii] The reference applications were required to be dismissed on the ground of limitation considering Article 137 of the Limitation Act. In the alternate, the same were required to be dismissed on the ground of delay and laches.

[iii] The reference court has no jurisdiction to decide any other question except the difference as to sufficiency of compensation in a reference u/s 35(3) of the Act.

[iv] The reference court has no jurisdiction to decide any other question except the difference as to sufficiency of compensation in a reference u/s 35(3) of the Act.

[v] The reference court has no jurisdiction to declare acquisition proceedings and the award declared by the Special Land Acquisition Officer u/s 35(3) of the Act as illegal and/or non-est in a reference u/s 35(3) of the Act.

[vi] The reference court has no jurisdiction to declare possession of the acquiring body as illegal and/or unauthorized and consequently the reference court has no jurisdiction to declare the ONGC-acquiring body as trespasser that too without framing any issue.

[vii] The reference court has no jurisdiction toward compensation by way of mesne profit declaring compensation of the acquiring body as illegal and unauthorized.

[viii] The reference court has also no jurisdiction to award statutory benefits and or interest, as awarded by the reference court, as if the acquisition proceedings is a permanent acquisition.

[ix] The reference court has no jurisdiction to determine the dispute with regard to sufficiency of the compensation beyond the period of three years from the date of taking the possession.

[x] The Reference Court has no jurisdiction to restore the possession of the land to the original owners while deciding the reference u/s 35(3) of the Act.

4. The ratio laid down in the aforesaid case is squarely applicable to the facts of the case. Learned advocate for the Respondents is not able to point out anything to take a different view of the matter.

5. In the premises aforesaid, these appeals are allowed. The judgment and award impugned in these appeals is quashed and set aside. No order as to costs.