
(2014) 10 GUJ CK 0035

In the Gujarat High Court

Case No : First Appeal Nos. 3308 to 3317 of 2013 and 588 to 592, 594 to 596 and 946 of 2014

Kodarbhai Nathubhai

APPELLANT

Vs

Deputy Collector

RESPONDENT

Date of Decision : 13-10-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18, 4, 6

Citation : (2014) 10 GUJ CK 0035

Hon'ble Judges : Mukesh R. Shah, J;Kaushal Jayendra Thaker, J

Bench : Division Bench

Advocate : S.K. Patel and K.M. Sheth, Advocate for the Appellant; Dhawan Jayswal, Asstt. Government Pleader, Advocate for the Respondent

Judgement

Mukesh R. Shah, J.—As common question of law and facts arise in this group of First Appeals and as such are with respect to the lands acquired of very village and for very project, all these Appeals are decided and disposed of by this common judgment and order.

2. Feeling aggrieved and dissatisfied with the impugned judgment and award dated 15.04.2013 passed by the learned Reference Court-learned Principal Senior Civil Judge, Himatnagar, District Sabarkantha in Land Acquisition Reference Case No. 1008/2006, by which the learned Reference Court has partly allowed the said reference and has awarded Rs. 130 per sq. meter as additional compensation over and above the compensation awarded by the learned Special Land Acquisition Officer, the appellant has preferred the present First Appeal No. 946/2014.

2.1. Feeling aggrieved and dissatisfied with the impugned common judgment and award dated 04.05.2013 passed by the learned Reference Court-learned Principal Senior Civil Judge, Himatnagar, District Sabarkantha in Land Acquisition Reference Case Nos. 917/2006 to 924/2006, by which the learned Reference Court has partly allowed the said reference and has awarded Rs. 113 per sq.

meter as additional compensation over and above the compensation awarded by the learned Special Land Acquisition Officer, the respective appellants have preferred the present First Appeal Nos. 588/2014 to 592/2014 and 3308/2013 to 3310/2013.

2.2. Feeling aggrieved and dissatisfied with the impugned common judgment and award dated 07.05.2013 passed by the learned Reference Court-learned Principal Senior Civil Judge, Himatnagar, District Sabarkantha in Land Acquisition Reference Case Nos. 945/2006 to 947/2006 and 950/2006 to 952/2006, by which the learned Reference Court has partly allowed the said reference and has awarded Rs. 129 per sq. meter as additional compensation over and above the compensation awarded by the learned Special Land Acquisition Officer, the respective appellants have preferred the present First Appeal Nos. 594/2014 to 596/2014 and First Appeal Nos. 3316/2013, 3317/2013 and 3315/2013.

2.3. Feeling aggrieved and dissatisfied with the impugned judgment and award dated 10.04.2013 passed by the learned Reference Court-learned Principal Senior Civil Judge, Himatnagar, District Sabarkantha in Land Acquisition Reference Case Nos. 974/2006 to 977/2006, by which the learned Reference Court has partly allowed the said reference and has awarded Rs. 113 per sq. meter as additional compensation over and above the compensation awarded by the learned Special Land Acquisition Officer, the respective appellants have preferred the present First Appeal Nos. 3311/2013 to 3314/2013.

3. The facts leading to the present First Appeals in nut-shell are as under:

That all the acquired lands in question situated at village Talold, Taluka Talod, District Sabarkantha came to be acquired under the provisions of the Land Acquisition Act (hereinafter referred to as "Act") for a public purpose-Sujlam Safalam Spreading Canal. That the notification under section 4 of the Act came to be published on 05.10.2004. A declaration under section 6 of the Act came to be issued/published on 10.02.2005. The Land Acquisition Officer declared the award under section 11 of the Act and awarded the compensation at the rate of Rs. 12 per sq. meter for the lands acquired. The original claimants-owners claimed the compensation at the rate of Rs. 300 per sq. meter. As the claimants were dissatisfied with the amount of compensation awarded by the Land Acquisition Officer at Rs. 12 per sq. meter, at their instance references under section 18 of the Act were made to the District Court, Sabarkantha and by impugned judgment and award the learned Reference Court has partly allowed the aforesaid references and has enhanced the amount of compensation and has determined and awarded the additional compensation at Rs. 130 per sq. meter in Land Acquisition Reference Case No. 1008/2006; Rs. 113 per sq. meter in Land Acquisition Reference Case Nos. 917/2006 to 924/2006 and Land Acquisition Reference Case Nos. 974/2006 to 977/2006; Rs. 129 per sq. meter in Land Acquisition Reference Case Nos. 945/2006 to 947/2006 and 950/2006 to 952/2006, over and above the amount of compensation awarded by the Special Land Acquisition Officer with all other statutory benefits which may be available

to the claimants under the provisions of the Act.

3.1. Feeling aggrieved and dissatisfied with the impugned judgment and awards passed by the learned Reference Court, the appellants herein-original claimants have preferred the present First Appeals to enhance the amount of compensation.

4. Shri S.K. Patel, learned advocate and Shri K.M. Sheth, learned advocate appearing on behalf of the respective original claimants have submitted that with respect to the lands acquired of the adjacent village Balisana, which is at a distance of 4 to 5 km and for the lands acquired of for the very project, on the basis of the settlement entered into at Lok Adalat, the Division Bench of this Court vide judgment and order passed in First Appeal No. 907/2013 and other allied matters, has enhanced the amount of compensation to Rs. 210 per sq. meter. It is further submitted that so far as the acquired lands situated at village Talod is concerned, as such they are on the higher footing as Talod is a taluka place and in the nearby area there is a fast development and GIDC, Agriculture Produce Market Committee, Schools, Colleges and other industries. Therefore, it is requested to enhance the amount of compensation to Rs. 210 per sq. meter awarded by the Division Bench of this Court in First Appeal No. 907/2013 and other allied matters. Therefore, it is requested to allow the present First Appeals and accordingly and to enhance the amount of compensation to Rs. 210 per sq. meter.

5. Shri Dhawan Jayswal, learned AGP has tried to oppose the present First Appeals by submitting that by impugned judgment and awards the learned Reference Court has enhanced the amount of compensation to Rs. 142 per sq. meter considering the earlier judgment and award passed by the learned Reference Court in Land Acquisition Reference Case No. 597/1990 produced at Exh. 22, by which for the lands acquired of very village for which the notification under Section 4 of the Act was published on 26.03.1987, the market price/compensation was determined at Rs. 35 per sq. meter and giving price rise at the rate of 15% per annum and considering the claim made by the claimants in the written statement and taking the mean, the learned Reference Court has rightly awarded the compensation at the rate of Rs. 142 per sq. meter in Land Acquisition Reference Case No. 1008/2006; Rs. 125 per sq. meter in Land Acquisition Reference Case Nos. 917/2006 to 924/2006 and Land Acquisition Reference Case Nos. 974/2006 to 977/2006 and Rs. 141 per sq. meter in Land Acquisition Reference Case Nos. 945/2006 to 947/2006 and 950/2006 to 952/2006. Therefore, it is requested to dismiss the present First Appeals. However is not disputing that with respect to the lands acquired of village Balisana-the adjacent village at a distance of 4 to 5 km from lands acquired and the lands acquired for the very project and for which the notification under section 4 of the Act was issued on 07.10.2004, the Division Bench of this Court has enhanced the amount of compensation to Rs. 210 per sq. meter.

6. Heard learned advocates appearing on behalf of respective parties at length and perused the impugned judgment and award passed by the learned Reference

Court.

At the outset it is required to be noted that the acquired lands in acquisition were situated at village Talod, Taluka Talod, District Sabarkantha and are acquired for Sujlam Safalam Spreading Canal and for which the notification under section 4 of the Act has been published on 05.10.2004. It appears and it cannot be disputed that as such Talod is a taluka town where there are Schools, Colleges, Agriculture Produce Market Committee, GIDC and other industries. That the Land Acquisition Officer has awarded the compensation at the rate of Rs. 12 per sq. meter for the acquired lands which has been enhanced to Rs. 142 per sq. meter in Land Acquisition Reference Case No. 1008/2006; Rs. 125 per sq. meter in Land Acquisition Reference Case Nos. 917/2006 to 924/2006 and Land Acquisition Reference Case Nos. 974/2006 to 977/2006 and Rs. 141 per sq. meter in Land Acquisition Reference Case Nos. 945/2006 to 947/2006 and 950/2006 to 952/2006. It is not in dispute that with respect to the lands acquired of adjacent village Balisana and acquired for the very project Sujlam Sufalam Spreading Canal and for which the notification under section 4 of the Act was published on 07.10.2004, the Division Bench of this Court by impugned judgment and order passed in First Appeal No. 907/2013 and other allied appeals has enhanced the amount of compensation to Rs. 210 per sq. meter. It is required to be noted that on the basis of the settlement arrived at in Lok Adalat, the Division Bench of this Court has allowed the aforesaid First Appeal No. 907/2013 and other allied appeals and has enhanced the amount of compensation to Rs. 210 per sq. meter [in all] with all other consequential benefits that may be available under the provisions of the Act. As observed herein above, as such the lands acquired of village Talod are on a better footing than the lands acquired of village Balisana. Learned advocates appearing on behalf of respective appellants have stated at the Bar that if for the acquired lands, the amount of compensation is enhanced to Rs. 210 per sq. meter at par with the lands acquired of village Balisana, claimants shall be satisfied.

6.1. Under the circumstances, when with respect to the acquired lands of village Balisana, for which the notification under Section 4 of the Act has been issued on 07.10.2004 and the lands were acquired for the very project, the Division Bench of this Court has enhanced the amount to Rs. 210 per sq. meter and considering the same as comparable, the claimants shall be entitled to the compensation at par with the same i.e. Rs. 210 per sq. meter. As observed herein above, even the acquired lands situated at village Talod, which is a taluka place and to some extent better situated than the lands acquired of village Balisana.

Under the circumstances, the claimants shall be entitled to the compensation at the rate of Rs. 210 per sq. meter. As observed herein above, learned advocates appearing on behalf of the respective claimants have stated at the Bar that they will be satisfied if the amount of compensation is enhanced to Rs. 210 per sq. meter.

7. In view of the above and for the reasons stated above, all these First Appeals

succeed in part and it is held that the claimants shall be entitled to the compensation at the rate of Rs. 210 per sq. meter [in all] with all other statutory benefits, which may be available to the claimants under the provisions of the Act as awarded by the learned Reference Court in the impugned judgment and awards.

Impugned judgment and awards dated 15.04.2013 passed in Land Acquisition Reference Case No. 1008/2006; dated 04.05.2013 passed in Land Acquisition Reference Case Nos. 917/2006 to 924/2006; dated 07.05.2013 passed in Land Acquisition Reference Case Nos. 945/2006 to 947/2006 and 950/2006 to 952/2006; dated 10.04.2013 passed in Land Acquisition Reference Case Nos. 974/2006 to 977/2006 are hereby modified to the aforesaid extent. All these First Appeals are partly allowed to the aforesaid extent. In the facts and circumstances of the case, there shall be no order as to costs.