

(2022) 01 GUJ CK 0052

In the Gujarat High Court

Case No : R/Special Civil Application No. 20308 Of 2021

Krupeshbhai Naraharibhai Patel

APPELLANT

Vs

Competent Authority National Highway Authority Of India
And Special Land Acquisition Officer

RESPONDENT

Date of Decision : 07-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 226
Right To Fair Compensation And Transparency In Land Acquisition Rehabilitation And
Resettlement Act, 2013 — Section 26(1), 30(1), 30(3)
National Highways Act, 1956 — Section 3G(5)

Citation : (2022) 01 GUJ CK 0052

Hon'ble Judges : Aravind Kumar, CJ; Ashutosh J. Shastri, J

Bench : Division Bench

Advocate : M A Husseni, Chintan Dave, Devang Vyas, Maulik Nanavati

Final Decision : Disposed Of

Judgement

Aravind Kumar, CJ

1. Learned counsel for the petitioner submits that copy of the petition would be supplied to the Mr. Devang Vyas, learned ASG of India. Registry to

print his name in the cause-list.

2. We have heard Mr. Husseni, learned advocate appearing for the petitioner, Mr. Chintan Dave, learned Assistant Government Pleader for

Respondent No. 2 - State, Mr. Maulik Nanavati, learned counsel for Respondent No. 1 and Mr. Devang Vyas, learned Assistant Solicitor General for

Respondent No. 4.

3. By this Petition under Article 226 of the Constitution of India, the Petitioner has prayed for the following reliefs:

12-A. This Honourable Court may be pleased to admit and allow this petition; and

B. This Honourable Court may be further pleased to issue appropriate writ and/or order and/or direction and quash and set aside the impugned award

dated 05.09.2017 bearing no. L.A.Q. Vadodara-Mumbai Expressway / Samayala Compensation Case No. 20/2013 passed by the respondent no. 1

" Competent Authority and Special Land Acquisition Officer which is at Annexure A only to the extent that the market value as determined

under section 26(1) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 has been

multiplied with factor 1 (one) instead of 2(two); and

C. This Honourable Court may be further pleased to issue appropriate writ and/or order and/or direction and thereby direct the respondent No. 1 -

Competent Authority and Special Land Acquisition Officer to amend/modify/ reverse impugned award dated 05.09.2017 bearing no. L.A.Q.

Vadodara-Mumbai Expressway / Samayala Compensation Case No. 20/2013 and re-compute the compensation amount payable to the petitioner qua

his land by multiplying the market value as determined under section 26(1) of the Right to Fair Compensation and Transparency in Land Acquisition

Rehabilitation and Resettlement Act, 2013 with Factor 2(two) and applying all other statutory benefits as provided under the LARR Act 2013 including

solatium under section 30(1), interest under section 30(3) and be further pleased to direct the respondents to pay the compensation so determined, with

interest, within 6 months of the judgment; and

D. This Honourable Court may be further pleased to issue pass such other order/s as may be deemed fit in the interest of justice; and

4. It is the contention of learned counsel appearing for the petitioner that petitioner is an agriculturalist / farmer having agricultural land being Survey /

Block No. 389 admeasuring 0-38-45 hector arre Sq. Mtrs., Survey / Block No. 393/A admeasuring 0-30-35 hector arre Sq. Mtrs., Survey / Block No.

393/B admeasuring 0-37-31 hector arre Sq. Mtrs., Survey / Block No. 398 admeasuring 0-42-49 hector arre Sq. Mtrs. and Survey / Block No. 399

admeasuring 1-69-97 H.R.A. Sq. Mtrs., situated in Moje Samiyala, Taluka Vadodara (Rural) & District Vadodara, Gujarat and he is tilling the said

land. It is further contended that village Samiyala does not fall within the limits

of Vadodara Municipal Corporation.

5. At this juncture, learned counsels appearing for the respective parties submitted that the issue involved in this petition is identical to the issue

decided by the Coordinate Bench of this Court in case of Shah Rajesh Manibhai vs. National Highway Authority of India rendered in Special Civil

Application No.5913 of 2021 dated 23.04.2021. The said order is further based upon a Division Bench judgment of this Court dated 12.09.2019 passed

in a group of petitions led by Special Civil Application No. 8734 of 2019, which has since been affirmed by the Supreme Court as the Special Leave

Petition filed by the State Government has been dismissed on 07.01.2021 in Special Leave Petition (Civil) Diary No. being 18777 of 2020. It is also

submitted that the issue in the present case is identical to the case of Dilipbhai Ganpatbhai Parmar vs. Competent Authority rendered in Special Civil

Application No.12140 of 2021 dated 27.08.2021. It was, therefore, submitted that this Petition may also be disposed of, following the order passed in

Special Civil Application No.5913 of 2021 dated 23.04.2021.

6. Learned counsel for Respondent No. 1 - NHAI, further submitted that as in the other cases if it is found that the Petitioner is entitled to Factor-

being applied for determination of compensation and other benefits, Respondent No.1 Authority shall make deposit within 21 days of such determination.

7. Thus, following the decision of the Coordinate Bench rendered in Special Civil Application No.5913 of 2021 dated 23.04.2021, the present Petition is

disposed of with the same directions and terms as contained in the order dated 23.04.2021 passed in Special Civil Application No.5913 of 2021.

8. However, it is clarified that if the petitioner has moved for redetermination of compensation before the Arbitrator under Section 3G (5) of the

National Highways Act, 1956, the Petitioner may not insist for Factor- being claim or in the alternative the respondents may be permitted to appraise

the Arbitrator of the said issue, so that there is no further multiplicity or complications in the proceedings.

9. The present Petition, therefore, stands disposed of accordingly. There shall be no order as to costs.