

(1999) 01 GUJ CK 0022

In the Gujarat High Court

Case No : Special Civil Application No. 4126 of 1998

Patel Naranbhai Gordhanbhai

APPELLANT

Vs

State of Gujarat

RESPONDENT

Date of Decision : 25-01-1999

Acts Referred:

Citation : (1999) 01 GUJ CK 0022

Hon'ble Judges : M.H. Kadri, J;J.M. Panchal, J

Bench : Division Bench

Advocate : Ranjan B. Patel, for the Appellant; P.G. Desai, Government Pleader for Respondent Nos.1 and 2, for the Respondent

Judgement

Panchal, J.—Learned Counsel for the petitioner seeks permission to delete names of respondents no. 3 & 4 from the present petition. In view of the averments made in the petition and the relief's claimed, permission as prayed for is granted.

2. Rule. Mr. P.G. Desai, learned Government Pleader waives service of notice of rule on behalf of respondents no. 1 & 2. At the joint request of learned Counsel appearing for the parties, the petition is taken-up for final hearing today.

3. By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside order dated December 1, 1995 passed by respondent no. 2 by which prayer made by the petitioner to refer the matter to the Court for determination of compensation, is rejected on the ground that the petitioner did not supply better particulars of his land which was acquired. The petitioner has further prayed to direct respondent no. 2 to make reference to the District Court, Vadodara for the purpose of determination of compensation.

4. From the facts pleaded in the petition, it is evident that the petitioner was owner of Block No. 40 of village Kudibahadurpur, Taluka: Sankheda, District : Vadodara. The said land was acquired by the State Government for rehabilitation of oustees of Narmada Yojna. Mr. P.G. Desai, learned Government Pleader on

instructions states that the Special Land Acquisition Officer, Unit-IV, Narmada Yojna, Narmada Bhavan, Vadodara, who is impleaded as respondent no. 2 in the petition, has not made any award as contemplated by the provisions of the Land Acquisition Act, 1894 and, therefore, the prayer to direct respondent no. 2 to refer the matter to District Court, Vadodara for determination of compensation should be rejected.

5. Heard the learned advocates. The record of the petition indicates that an application was submitted by the petitioner to respondent no. 2 with a request to refer the matter to District Court, Vadodara for ascertaining appropriate market value of his land acquired. However, respondent no. 2 addressed a letter dated December 1, 1995 to the learned advocate of the petitioner informing him that as better particulars of the land acquired were not furnished, prayer to refer the matter to Court for determination of compensation is rejected. The said communication is produced by the petitioner at Annexure-A to the petition. Admittedly, award has not been made by respondent no. 2 and, therefore, respondent no. 2 should not have communicated to the learned advocate of petitioner that prayer to refer the matter to the Court for determination of compensation was rejected, as better particulars of the land were not furnished by the petitioner. Therefore, Annexure-A will have to be set aside. However, as award is not made by respondent no. 2, prayer to direct the respondent no. 2 to refer the matter to District Court, Vadodara for determination of compensation cannot be entertained and the said prayer is liable to be rejected.

6. For the foregoing reasons, the petition partly succeeds. Order dated December 1, 1995 produced at Annexure-A to the petition, in so far as it relates to the petitioner, is hereby quashed and set aside. The prayer to direct the respondent no. 2 to refer the matter to District Court, Vadodara for determination of compensation, is rejected. Rule is made absolute to the above extent only, with no order as to costs.