

(2019) 07 GUJ CK 0052
In the Gujarat High Court

Case No : R/Special Civil Application No. 9538, 9541, 9543, 9548, 9550 Of 2019

Rasiklal Kalyanji Doshi

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 23-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Land Acquisition Act, 1894 — Section 4, 6, 11, 11(2), 18

Citation : (2019) 07 GUJ CK 0052

Hon'ble Judges : Anant S. Dave, J; Biren Vaishnav, J

Bench : Division Bench

Advocate : Shivang A Thacker

Final Decision : Disposed Of

Judgement

Anant S. Dave, J

1. The present petitions under Article 226 of the Constitution of India have been filed seeking issuance of a writ of mandamus or a writ of certiorari in

the nature of mandamus or any other appropriate writ, order or direction, directing the Respondents to implement the Award (Annexure A) passed

U/S 11(2) of the Land Acquisition Act, 1894 by paying difference of amount alongwith interest @18% p.a. from the date of award till payment to

which the petitioners are entitled to as per new Jantri for their land bearing Survey Nos. 344/3, 341, 355/2, 352, 349/2 and 344/4 of village Selari,

Taluka Rapar, District Kutch which has been acquired for the purpose of Canal under Narmada Yojana.

2. The facts in brief are as under:

2.1 The petitioners are the owners and occupiers of lands bearing Survey Nos. 344/3, 341, 355/2, 352, 349/2 and 344/4 of village Selari, Taluka Rapar,

District Kutch. It is the case of the petitioners that the lands have been acquired for the purposes of the Narmada Yojna Canal in Kutch branch.

Notifications under Section 4 of the Land Acquisition Act was published on 27.10.2010 and notification under Section 6 on 05.03.2011. It is the case

of the petitioners that the petitioners agreed before the respondent authorities for a consent award under Section 11(2) of the Act and therefore did

not file any application for reference under Section 18 of the Act. The Deputy Collector and Special Land Acquisition Officer passed a consent award

on 31.03.2012.

2.2 Condition no. 10 of the consent award stipulated that the land owners are required to be paid the difference of compensation as per the new jantri

price prevailing at the relevant time in respect of Selari village. Since it was not then determined, the award made a reference that as and when the

jantri price is finalised the difference of compensation will be paid to the land owners.

2.3 It is the case of the petitioners that identically situated agriculturists who are party to an identical consent award approached this Court by filing

Special Civil Application No. 8465 of 2016 and this Court by an order dated 20.06.2017 gave the following directions :

“Concerned respondents are directed to act accordingly and re-determine the amount of compensation as per the new jantri price as mentioned

in the award under Section 11 of the Land Acquisition Act and pay the same to the respective petitioners - original land owners with interest and /or

other benefits, which may be available under the provisions of the Land Acquisition Act, 1894.

[4.0] With this, all these petitions stand disposed of. Direct service is permitted.”

2.4 It is further the case of the petitioners as so pointed out by Mr. Shivang Thacker, learned advocate for the petitioners that similarly situated

persons also came before this Court by filing Special Civil Applications No. 18540 of 2018 where this Court by an order dated 07.12.2018 disposed of

the petitions by issuing the following directions :

“6. Accordingly, we direct the respondents to consider the prayer of the petitioners herein for payment of difference of amount of compensation

considering the new jantri price so stipulated in the awards under Section 11 of

the Land Acquisition Act, 1894. The respondents are, therefore, directed to consider the case of the petitioners for payment of difference of amount of compensation on the basis of the new jantri price as mentioned in the awards under Section 11 of the Land Acquisition Act, 1894 as is done in the case of Ramji Rama Vaid (supra) and take a decision in context of their prayer made in these petitions within a period of six weeks from the date of receipt of the certified copy of the order. Needless to say that looking to the fact that the petitioners are similarly situated as in the case of Ramji Rama Vaid (supra), the respondents will accordingly redetermine the amount of compensation and pass orders for payment of such re-determined amount on such consideration within the time framed as directed as aforesaid. The Petitions are disposed of with the aforesaid directions.â??

2.5 Mr. Thacker further submitted that in the case of Ramji Rama Vaid vs. State of Gujarat and Others rendered in Special Civil Application No. 8465 of 2016 revised orders were passed and the respondents acted on the judgement. It is in this context that the prayer as referred to hereinabvoe has been made by the petitioners.

3. Ms. Manisha L Shah, learned Government Pleader appearing for the respondent is not in a position to dispute these assertions. In fact she has made a statement that in accordance with condition no. 10 of the consent award by which the petitioners were assured that as and when the jantri price is finalised the difference of the compensation will be paid, such an exercise will be carried out in the case of the petitioners.

4. Admittedly, therefore, the case of the petitioners is squarely governed by the issue so decided by this Court in Special Civil Application No. 8465 of 2016 and Special Civil Application No. 18540 of 2018. Accordingly, in accordance with the directions issued by this Court in the aforesaid orders, the directions issued in the case of Special Civil Application No. 18540 of 2018 are issued in the case of the petitioners herein.

5. Accordingly, we direct the respondents to consider the prayer of the petitioners herein for payment of difference of amount of compensation considering the new jantri price so stipulated in the awards under Section 11 of the Land Acquisition Act, 1894. The respondents are, therefore, directed to consider the case of the petitioners for payment of difference of amount of compensation on the basis of the new jantri price as mentioned

in the awards under Section 11 of the Land Acquisition Act, 1894 as is done in the case of Ramji Rama Vaid (supra) and take a decision in context of the prayer made in the petitions within a period of six weeks from the date of receipt of the certified copy of the order. Needless to say that looking to the fact that the petitioners are similarly situated as in the case of Ramji Rama Vaid (supra), the respondents will accordingly redetermine the amount of compensation and pass orders for payment of such re-determined amount on such consideration within the time frame as directed as aforesaid. The Petitions are disposed of with the aforesaid directions.