

(2023) 06 GUJ CK 0020

In the Gujarat High Court

Case No : R/Special Civil Application No. 9215 Of 2023

Shah Surendra Nathalal (Rohit Sureshkumar Nathalal As Per Award) APPELLANT

Vs

Competent Authority RESPONDENT

Date of Decision : 07-06-2023

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 21, 226, 300A
Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 — Section 26(1), 30(1), 30(3)

Citation : (2023) 06 GUJ CK 0020

Hon'ble Judges : A.J.Desai, J;Biren Vaishnav, J

Bench : Division Bench

Advocate : Kshitij P Vakil, St Shah, Maulik Nanavati

Final Decision : Disposed Of

Judgement

A.J.Desai, J

[1.0] RULE returnable forthwith. Learned advocates for the respective respondents waive service of rule on behalf of the respective respondents. With consent of the learned advocates, the matter is taken up for final hearing today.

[2.0] Heard Mr. Kshitij Vakil, learned counsel for the petitioners, Ms. S.T. Shah, learned AGP for respondent No.2 and Mr. Maulik Nanavati, learned advocate appearing for respondent No.3.

[3.0] By way of this petition under Articles 14, 19, 21, 300A and 226 of the Constitution of India, the petitioners have prayed for a writ, order or direction to quash and set aside the award dated 05.09.2017 bearing no. L.A.Q. Vadodara-Mumbai Expressway / Dodka Compensation Case No.07 of 2013. It is further prayed that the award be modified 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,

including solatium under Section 30(1) and interest under Sec. 30(3).

[4.0] In light of the decision of this Court rendered in the case of Dhiraj Ambalal Patel vs. State of Gujarat reported in 2020 (1) GLR 752 and also in light of an order passed by a co-ordinate Bench of this Court rendered in Special Civil Application No.19270 of 2021, the following order is passed:

The present petition is disposed of with the same directions and terms as contained in the case of Dhiraj Ambalal Patel (Supra). However, it is clarified that if the petitioners have moved for re-determination of compensation before the Arbitrator under Section 3G(5) of the National Highways Act, 1956, the petitioners may not insist for Factor-"2" 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.

[5.0] The present petition, therefore, stands disposed of accordingly. Rule is made absolute to the above extent.