
(2013) 10 GUJ CK 0159

In the Gujarat High Court

Case No : First Appeal No's. 2989, 2990 and 2998 of 2013 and Civil Application No's. 11119 and 11128 of 2013

Special Land Acquisition Officer and Another

APPELLANT

Vs

Rabari Naranbhai Govabhai

RESPONDENT

Date of Decision : 14-10-2013

Acts Referred:

Citation : (2013) 10 GUJ CK 0159

Hon'ble Judges : Z.K. Saiyed, J; Jayant Patel, J

Bench : Division Bench

Advocate : D.M. Jayswal, AGP No. 1-2, for the Appellant; A.V. Prajapati, Advocate for Defendant No. 1, for the Respondent

Final Decision : Dismissed

Judgement

Jayant Patel, J.—As all the Appeals arise from the common Judgment and the Award of the Reference Court, they are being considered simultaneously. The present Appeals are directed against the Judgment and the Award dated 1.3.2013 passed by the Reference Court in Land Acquisition Reference Case Nos. 3266 to 3275 of 2011, whereby the Reference Court has awarded additional compensation at Rs. 193/- per sq. meter, plus the benefit u/s 23(1-A), 23(2) of the Land Acquisition Act (herein after referred to as "the Act") and the interest u/s 28 of the Act.

2. The short facts of the case are that the land at village Laxmanpura, Taluka Kadi, District Mehsana, were to be acquired for the project of Narmada Yojana, Unit-2, under the Act. The notification u/s 4 of the Act was published on 1.8.2007 and the notification u/s 6 of the Act was published on 19.3.2008. Thereafter the Award was passed on 11.3.2010 and the Land Acquisition Officer had awarded compensation at Rs. 7.35 paise per sq. meter. As the land owners/claimants were not satisfied with the compensation, they raised dispute u/s 18 of the Act and demanded the compensation at Rs. 1000/- per sq. meter. Such disputes were referred to the Reference Court for adjudication being Land

Reference Case Nos. 3266 to 3275 of 2011. The Reference Court, at the conclusion of the reference, passed the above referred Judgment and the Award. Under the circumstances, the present Appeals before this Court.

3. We have heard Mr. Jayswal, learned A.G.P. for the Appellants and Mr. A.V. Prajapati, learned Counsel, appearing for the original claimants upon the advance copy.

4. At the outset, Mr. Prajapati, learned Counsel, appearing for the respondents-claimants, has brought to the notice of this Court that the land at village Laxmanpura came to be acquired into two parts, one was by Notification dated 24.8.2000 u/s 4 and another was by notification dated 26.8.2007. In both the group of matters different parcels of the land, the disputes were raised and such disputes were referred to the Reference Court for adjudication. One group was Land Reference Case Nos. 3257 to 3265 of 2011 and another was the present one. In the group of Land Reference Case No. 3257 to 3265 of 2011 the Reference Court has awarded additional compensation at Rs. 193.89 paise per sq. meter, like in the present matter, and those Award passed by the Reference Court has been accepted by the State Government and he has produced the communication dated 8.5.2013, addressed by the Narmada Department of the State Government to the Special Land Acquisition Officer, whereby it has been communicated that the Government has accepted the decision and, therefore, the payment be deposited in the Court.

5. Mr. Jayswal, learned A.G.P. Is unable to dispute the aforesaid correspondence and the acceptance of the Judgment by the State Government in Land Reference Case Nos. 3257 to 3265 of 2011 in respect of the acquisition of the land of village Laxmanpura wherein the additional compensation was awarded for the land of same village.

6. As such, in our view, the approach on the part of the State Government for challenging the decision in one group of matter and accepting the decision in another group of matters wherein the lands are located at the very village and the Courts have awarded the almost same amount of additional compensation, cannot be countenanced and we leave it at that, in any event, the present Appeals deserve to be dismissed only on that count.

7. Apart from the above, even if the merit of the Appeals are taken into consideration, it appears that the Reference Court has relied upon the previous decision of the Reference Court for the acquisition of the land at village Laxmanpura only wherein the valuation was determined at Rs. 117.80 ps. per sq. meter in a case where the notification u/s 4 of the Act was published on 24.8.2000. Thereafter, the Reference Court has considered the appreciation at the rate of 10% p.a. since the notification u/s 4, in the present matter, is of 1.8.2007, and has arrived at the figure at Rs. 200.26 paise per sq. meter and since the Land Acquisition Officer had already awarded compensation at Rs. 7.35 paise per sq. meter, the balance amount of Rs. 192.91 and by rounding at Rs.

193/- per sq. meter has been awarded as compensation. The other benefits granted by the Reference Court for increase in the market value u/s 23(1-A) and solatium u/s 23(2) of the Act and the interest u/s 28 of the Act are by way of statutory consequence. Under the circumstances, even otherwise on merit also the approach by the Reference Court cannot be said to be unreasonable or perverse.

8. In view of above, all the Appeals are merit-less, hence dismissed.

9. Considering the facts and circumstances, the appellants shall deposit the amount of compensation within a period of 8 weeks from today since in other matters the Judgment of the same type of land of the same village and of the almost same amount is already accepted by the State Government. All Appeals are disposed of accordingly. Considering the facts and circumstances, there shall be no order as to costs.

ORDER IN CIVIL APPLICATIONS NO. 11119 TO 11128 OF 2013

In view of the order passed in the First Appeals, Civil Applications would not survive. Hence, disposed of accordingly.