

(2001) 06 GUJ CK 0049

In the Gujarat High Court

Case No : First Appeal NO 2598 and 2602 of 2001

Special Land Acquisition Officer

APPELLANT

Vs

Amrutbhai Chunilal

RESPONDENT

Date of Decision : 18-06-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1), 4(1), 54, 6(1)

Citation : (2001) 06 GUJ CK 0049

Hon'ble Judges : J.N. Bhatt, J; Akshay H. Mehta, J

Bench : Division Bench

Advocate : A.D. Oza, GP, for the Appellant; P.V. Nanavati and Devendra Patel, for the Respondent

Judgement

J.N. Bhatt, J.—Admit, service of notice is waived by learned Advocate Mr. P.V.Nanavati with Mr. Devendra Patel for the respondents.

2. In this group of five appeals, u/s 54 of the Land Acquisition Act, 1894 (Act), common questions are involved and therefore, upon joint request,

they are being disposed of by this common judgment.

3. The appellants have challenged the judgment and award recorded by 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural),

Mirzapur, in Land Acquisition Reference Nos.652 and 125, 127, 128 and 129 of 1991, dated 3.12.99, whereby, the reference Court, partly

allowed, the references and held that the claimants are entitled to get a sum of Rs.52 per sq. mtr. for their acquired lands as additional

compensation over and above the compensation already awarded by the Land Acquisition Officer, together with 30 per cent solatium and running

interest at the rate of 9 per cent per annum for the period of one year from the date of taking over possession of the acquired lands, and thereafter,

at the rate of 15 per cent per annum till the entire amount is fully paid or deposited.

4. A few relevant facts, may be stated, at this stage, giving rise to this group of appeals. The Executive Engineer, Narmada Project, Ahmedabad,

had proposed by his letter to acquire the following lands of village Dantali, Tal: & Dist: Gandhinagar, for the purpose of construction of Narmada

Project main canal:

Sr.No. L.A.Case No. Block No. Area in sq. mtr.

1. 652/91 533 1618

2. 125/91 517/A 1920

517/C 0809

3. 127/91 514 0352

4. 128/91 550 4945

5. 129/91 543 0464

5. The notification u/s 4(1) of the Act was published in the Government Gazette on 2.1.86 while notification u/s 6(1) was published on 29.1.87.

The Special Land Acquisition Officer fixed the market price of the lands at the rate of Rs.2.50 per sq. mtr. for the agricultural land by passing

award dated 31.1.89. In the land references, the appellant No.1 filed written statement at Ex.9 whereas, appellant No.2 filed written statement at

Ex.13. Common defence was raised and it was, inter alia, contended that the Land Acquisition Officer has declared his award on 31.1.89 and

fixed compensation at the rate of Rs.2.50 per sq. mtr. for the agricultural land after taking into account the location and all other facts and

circumstances of the case and the provisions of section 23 of the Land Acquisition Act. On behalf of the respondents, one Amrutlal Chunilal was

examined at Ex.40. His evidence was relied on by the reference Court. The sale instances were cited and relied on by the claimants. The reference

Court placed reliance on the awards in respect of agricultural lands adjoining to the acquired lands of the original claimants. This group of five

matters could not be taken up along with another group of 11 matters which was decided on 15.6.2001, on account of application for condonation

of delay. Otherwise, they formed part of a group arising out of same notification, same area, same issues and against same original opponents.

6. In the earlier group of 11 matters, being First Appeal No.2147 to 2157/2001, decided on 15.6.2001, this Court (Coram: J.N.Bhatt &

J.R.Vora, JJ) extensively considered the oral as well as the documentary evidence and the relevant proposition of case law and after having

considered, this Court has reached to the conclusion that an additional amount of Rs.52 awarded by the Reference Court is quite justified and

requires no interference in exercise of appellate powers u/s 54 of the Act. In our opinion, and upon joint request made by the learned advocates

appearing for the parties, again same reasons need not be articulated, since in the group decided 15.6.2001, this Court has, elaborately dealt with

the issues. Therefore, this group of five matters is, squarely, covered by the decision of this Court in First Appeal No.2147 to 2157 of 2001. We,

therefore, do not propose to reiterate and repeat detailed reasons and analyse the evidence.

7. As regards the contention of the learned Government Pleader that the reference Court has committed error in not deducting 5 per cent as

Government share in respect of new tenure land, the learned advocate for the respondents has fairly stated that in case of new tenure land, he

would not object the deduction of 5 per cent share of the Government. Therefore, in case of new tenure land, 5 per cent of the amount of

compensation shall be deducted as compensation to the Government, in view of the concession and frank statement made on behalf of the

respondents-original-claimants. However, it will have to be verified by the authorities concerned as to whether the acquired land happened to be

new tenure land or not. As clarified in the earlier group of 11 first appeals, for abundant precaution, it is clarified that the amount of interest shall be

paid on the amount of compensation u/s 23(1) as no interest is payable on the amount of solatium and additional amount of compensation u/s 23(1)

(a) of the Act.

8. With the above observations, this group of appeals is partly, allowed to the aforesaid extent, with no order as to costs.