

(2011) 02 GUJ CK 0051

In the Gujarat High Court

Case No : First Appeal No's. 3700 and 3701 of 2008

Spl. LAQ Officer

APPELLANT

Vs

Amrutbhai Kantibhai and Another

RESPONDENT

Date of Decision : 22-02-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 23(1A), 23(2), 28, 4

Citation : (2011) 02 GUJ CK 0051

Hon'ble Judges : J.C. Upadhyaya, J

Bench : Single Bench

Advocate : Shachi Mathur, AGP, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

J.C. Upadhyaya, J.—Both these appeals arise out of the common judgment and award rendered by the Ld. Extra Assistant Judge, Mehsana on 29/12/2001 in Land Acquisition Reference Case Nos. 1198/1998 to 1204/1998. The Reference Court partly allowed the reference cases and held that the claimants were entitled to recover additional compensation at the rate of Rs. 50/-per sq. mtr., over and above the amount of compensation already awarded by the Special Land Acquisition Officer. The Reference Court further held that the claimants were entitled to additional amount of compensation at the rate of 12% on additional amount of compensation awarded to the claimants, u/s 23[1-A] of the Land Acquisition Act[for short "the Act"] and the Reference Court awarded the amount of solatium at the rate of 30% on the additional amount of compensation u/s 23[2] of the Act. The interest as provided u/s 28 of the Act was also granted.

2. Being aggrieved and dissatisfied with the impugned judgment and order rendered by the Reference Court, the Special Land Acquisition Officer preferred these appeals.

3. Ms. Mathur, Ld. AGP representing Appellant submitted that in the instant case, the notification u/s 4 of the Act was published on 16/9/1996. Thereafter, the

Appellant - Special Land Acquisition Officer passed award u/s 11 of the Act on 27/4/1998 and the amount of compensation u/s 11 of the Act was to the effect of Rs. 3-00 per sq. mtr., for irrigated land and Rs. 4-50ps. Per sq. mtr., for non-irrigated land. The claimants felt that the amount awarded by the Appellant was quite inadequate and, therefore, preferred the reference cases.

3.1. Ms. Mathur, Ld. AGP submitted that in the reference cases, the claimants solely relied upon certain judgments and awards earlier delivered regarding the land situated either in the outskirts of the same village or of the nearby village. It is submitted that the Reference Court without considering the aspect of proximity or the fertility of the land and other relevant factors, readily adopted the award rendered earlier and that award was made the base for determining the market value in the instant case. It is submitted that as a matter of fact, the claimants had not produced any evidence to claim any enhancement. That the Land Acquisition Officer has considered relevant material while fixing the market rate of the land under acquisition.

3.2. Ms. Mathur, Ld. AGP, therefore, submitted that both these appeals may be allowed and the impugned judgment and award rendered by the Reference Court may be set aside.

4. None appeared for the Respondents though duly served.

5. I have perused the record and proceedings in context with the reasoning assigned and findings arrived at by the Reference Court in the impugned judgment and award. The notification u/s 4 of the Act came to be published on 16/9/1996 and the Special Land Acquisition Officer delivered the award u/s 11 of the Act on 27/4/1998. The Special Land Acquisition Officer determined the compensation at Rs. 3/-per sq. mtr., for irrigated land and Rs. 4-50 ps. Per sq. mtr., for non-irrigated land. The claimants felt that the amount awarded to them was very meager and small amount and, therefore, preferred the land references. It further transpires that the claimants themselves came to be examined and they examined witnesses before the Reference Court in context with the comparable awards produced by them from exhs. 13 to 19. The Reference Court, in para. 18 in the impugned judgment and award, elaborately discussed the oral evidence together with comparable awards passed earlier to ascertain the correct market value of the land under acquisition. Out of the certified copies of the earlier awards produced before the Reference Court, the Reference Court thought it proper to consider the earlier award exh. 19, where under market value was determined at the rate of Rs. 30/-per sq. mtr. According to the Reference Court, the earlier award exh. 19 was pertaining to the land of village Adudara and the lands acquired of the claimants were also situated in the outskirts of said village. In the earlier award exh. 19, the notification u/s 4 of the Act was published on 23/9/1984; whereas in the instant case, the notification u/s 4 of the Act was published on 16/9/1996. The Reference Court, therefore, held that there was a gap of 11 years and relying upon the case of Special Land Acquisition Officer, Bharuch v. Motibhai Mohanlal 1997 (1) G.L.H. 773, the

Reference Court came to the conclusion that the claimants were entitled to get addition of the amount at the rate of 10% for each year. Accordingly, the Reference Court came to the conclusion that over and above Rs. 30/-per sq.mtr determined in the earlier award exh. 19, the claimants were entitled to get Rs. 33-10 ps more by way of price rise and accordingly Rs. 63/-persq. mtr., was considered to be the market value of the land. However, the Reference Court held that the Special Land Acquisition Officer has determined Rs. 4-50 ps. Per sq. mtr., as market value and considering the facts and circumstances of the case, the claimants were entitled to recover, by way of additional amount of market value at the rate of Rs. 50/-per sq.mtr. Thus, the Reference Court came to the conclusion that the proper market value of the land can be Rs. 63/-per sq. mtr., yet the Reference Court fixed the market value at Rs. 54-50 ps. Per sq. mtr.

6. When such is the situation, this Court does not find any infirmity either in the reasoning assigned by the Reference Court while fixing the correct market value of the land under acquisition or with the ultimate finding arrived at by the Reference Court. The Reference Court also considered the statutory additional amount awardable to the claimants u/s 23[1-A] and Section 23[2] of the Act. The Reference Court further held that the claimants were entitled to interest as contemplated u/s 28 of the Act.

7. Both these appeals are, therefore, devoid of any merit and deserve dismissal.

8. For the foregoing reasons, both these appeals are dismissed without any order as to costs.