

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 341 of 1994

to

FIRST APPEAL No 385 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE A.R.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

ASSISTANT DIRECTOR

Versus

SPL. LAND ACQ. OFFICER

Appearance:

MR AKIL KURESHI for Appellant
MR.M.R.ANAND, GP WITH MR.M.R.RAWAL, AGP for
Respondent No.1
MR AJ PATEL for Respondent No. 2

CORAM : MR.JUSTICE N.J.PANDYA and

MR.JUSTICE A.R.DAVE

Date of decision: 31/07/96

ORAL JUDGEMENT : [Per : Pandya, J]

The matters were heard at length on two occasions. On both the sides, parties were also present. We are convinced that the trial court unfortunately did not have sufficient material before it and, therefore, it had gone by an award relating to Vavol village which is on the western side of Gandhinagar. The land under acquisition in the present proceedings are of village Lekawada which is situated towards the east of Gandhinagar.

From the submissions made, it is quite clear that both the parties should have produced sufficient material before the trial court which some how or the other has not been done. As the price gap seems to be considerably high and taken from the point of view the amount awarded by Land Acq. Officer on one hand and amount fixed by the Reference Court on the other, gap is indeed very wide. To bring about the realistic position on record, it is in the interest of both the sides that they be given an opportunity afresh.

The best way, therefore, seems to be is to remand the matter after setting aside the order of the trial court. The material already on record will continue to be so. Both the sides will be at liberty to adduce evidence oral as well as documentary evidence over and above material on record and both the sides will certainly get adequate opportunity of testing the material placed by the other side.

The matters are, therefore, placed back at the stage where they were for recording evidence on the part of the claimants- respondents. For the evidence pursuant to this order means, it is expected of both the sides to produce documentary evidence which they want to rely upon subject to, of course, to proof so that neither party is taken by surprise and they may be ready to meet with the respective material in the course of trial which is to proceed further on the basis of this order.

As the order is being set aside, some observations are required to be made about the payment already effected. By this payment we mean that payment pursuant to the order of the trial court which has now been set aside which came to be modified to the extent of 50% by an interim order of hon'ble Supreme Court. As a result of the said order of this Court, 50% amount awarded by the trial court with proportionate costs and interest came to be deposited and came to be already

withdrawn by the respective claimants and that amount will certainly remain with them and it shall be adjusted towards the amount which the trial court will now fix pursuant to this order after hearing both the sides.

Accordingly, appeals are allowed. The impugned order of the trial court is set aside. The matters are remanded back to the trial court.

With a view to avoid any further delay, time for appearing before the trial court is also fixed on 14.8.1996 and thereafter, it is expected of the parties that respective sides will produce evidence on that day or soon there after on the date appointed by the trial court for the purpose. Looking to the fact that there are many matters pending before the trial court and the fact that acquisition of the year 1987, no further time than necessary should be allowed to go-bye and, therefore, some time limit is required to be fixed for disposal of the matter by the trial court. Since both the sides are ready and, therefore, it should not take any long for them to produce necessary material before the trial court and proceed further and, therefore, time limit is fixed up to 31.12.1990. On or before that day, these matters should be heard and disposed of in accordance with law and keeping in mind the observations made herein above.

Copy of this order be given to respective parties to curtail the time required for communication and office is directed to send record and proceedings of these matters back to the trial court so as to reach there on or before 12.8.1996.

Appeals are allowed accordingly. No order as to costs.

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