

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7238 of 1998

to

FIRST APPEAL No 7295 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
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? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

UDABHAI SOMABHAI

Appearance:

Mr.Sudhanshu Patel, learned A.G.P. for appellants
in First Appeals Nos.7238 to 7266 of 1998.

Mr.P.G.Desai, learned G.P. for appellants in
First Appeals Nos.7267 to 7295 of 1998.

Mr.A.J.Patel for the claimants.

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE PRADIP KUMAR SARKAR
Date of decision: 30/12/1999

COMMON ORAL JUDGEMENT(Per M.R.Calla,J)

1. All these 58 First Appeals are based on identical facts and are directed against the common judgment and order passed by 2nd Extra Assistant Judge, Kheda at Nadiad in Land Reference Cases under S.18 grouped as L.R.C.Nos.1288 to 1302 of 1994, L.R.C.Nos.1303 to 1323 of 1994, L.R.C.Nos.1562 to 1576 of 1994 and L.R.C.Nos.2088 to 2094 of 1994 decided on 12.3.98. We, therefore, propose to decide all these 58 Appeals by this common judgment and order as under:-

2. The lands of village Sorna, Taluka Kapadvanj, District Kheda were sought to be acquired for Narmada Main Canal Project. For the purpose of acquisition, the Notifications under S.4 were issued on 26.7.90, 16.7.90, 2.7.90 and 16.7.90 with regard to the lands which were concerned in each of the 4 groups of Land Reference Cases numbered as above. With regard to the lands, which were concerned in each of the 4 groups concerned therein, the Awards were passed on 28.7.93, 19.7.93, 22.7.93 and 22.7.93 respectively. With regard to the lands, which were concerned in the four groups, the Land acquisition officer awarded compensation at the rate of Rs.210/- per Are and Rs.140/- per Are for irrigated and non irrigated lands respectively, as against the claim of the claimants at the rate of Rs.10000/- per Are in each of the four groups. Thus according to the Land Acquisition Officer, the rate of compensation comes out to be Rs.210/- per Are for irrigated lands and Rs.140/- per Are for non irrigated lands. The Reference Court has decided the References in these matters, granting Rs.1500/per Are i.e. Rs.15/- per sq.mt. treating all the lands to be irrigated.

3. Reference Court considered the following items of evidence etc. as relied upon by the claimants

M.9/1

Exh.10 Report of expert Mr.Omprakash Pandya,
Village Form No.7/12 for the purpose of
production of papaiya.

Exh.11 Village Form No.7/12 for the purpose of
production of papaiya.

Exh.105 Certified copy of expert Mohanlal

Parsottambhai who was examined on behalf
of govt. in L.A.R.No.356/94.

Exh.106 Certified copy of detailed schedule
issued by the expert for produce, cost
and net profit.

Exh.103 Award for allowing the compensation of
well in village Vanghroli.

Exh.104/3 Krishi Jivan Magazine upon which the
expert has prepared the detailed data.

Exh.14 & 15 Certified copy of the price-list issued
from Kapadwanj Taluka Agricultural
Produce Market Committee for the year
1990-91.

Exh.38 to 102 Certified copies of village form No.7/12.

Exh.17 Deposition of the claimant Muljibhai
Punjabhai.

Exh.107 Closing purshish.

Exh.113 Written Argument.

The Department had examined no witness before the
Court but produced the following documents:

Exh.21 Figures of rain.

Exh.22 Sale index of land of village Sorna.

Exh.26 Map of main canal pass through village
Sorna.

Exh.27 As above.

Exh.28 Certified copy of the sale deed of land
of village Sorna.

Exh.30 Village Form No.16 for the well.

Exh.23 Sketch of main canal.

Exh.24 Sale index of the land of village Sorna.

Exh.29 Village Form No.7/12

Exh.25 Notification for scarcity.

Exh.31 Valuation report of well.

Exh.32 Judgment of the Hon'ble High Court in
F.A.No.1021/95.

Exh.34 Statement for showing the annual income
of the claimant.

Exh.35 Copy of the register to show about
acquisition of well.

Exh.109 Joint Measurement Sheet prepared for
agricultural land of village Sorna.

Exh.36 Village Form No.16 for the well.

Exh.37 Village Form No.7/12

Exh.110 Certified copy of para 104 of Land
Acquisition Rules.

Exh.111 Closing purshish.

Exh.114 Written Statement.

4. After considering the evidence with regard to all the aspects, the Reference court came to the conclusion that claimants were entitled to be paid compensation in respect of the lands at the rate of Rs.15/- per sq.mt. and all the lands were found to be irrigated.

5. On behalf of the present appellants, it is not contested that all the lands were irrigated and, therefore, there remains no dispute of fixing the rates separately for irrigated and non irrigated lands.

6. Reference court has passed a detailed order and has taken into consideration the patterns and discussion has been made with regard to various crops. For reasons given in para 18 of the impugned order, the Reference Court has concluded in the end of para 18 that for getting the exact market price of the annual yield of all type of crops, as were cultivated, it has to be divided by two, so as to get the just and fair annual yield. This finding has not been challenged before us.

7. Grievance has been raised that in para 19 of the impugned order, Reference Court has found that the average minimum price of millet was Rs.250/- per 100 Kg. in the year 1990 and thus the price has been arrived at Rs.2.50 per Kg. Mr.Sudhanshu Patel, learned A.G.P. has submitted that as per Exh.14 and Exh.15 the market price issued by the Kapadvanj Agricultural Produce Market Committee was Rs.240/- per 100 Kg. and, therefore, the price should have been arrived at by the Reference Court at Rs.2.40 per Kg. instead of Rs.2.50 per Kg. and, therefore, per Kg. 10 Ps. more has been taken into consideration. We find from the discussion in para 19 that the Expert had given the price by detailed data at Exh.106 at the rate of Rs.400/- per 100 Kg. and on behalf of the claimants, it was deposed vide Exh.17 that they were getting more than Rs.350/- per 100 Kg for millet. Thus according to market price of Kapadvanj Agricultural Produce Market Committee, it was Rs.240/per 100 Kg., according to expert at Exh.106 it was Rs.400/per 100 Kg. and according to the deposition of the claimants it was more than Rs.350/- per 100 Kg. Keeping in view all the three items, if the Reference Court found that average minimum price of the millet is at Rs.2.50 Ps. per Kg., the same cannot be said to be unreasonable.

8. The order was also assailed on the ground that in the case of the crop of paddy as per the detailed data given by Expert at Exh.106, the total yield of paddy crop was 3000 Kg. per Hectore. But the Reference Court has taken it to be 4000 Kg.per Hectore. It is clear that as per the data given by the expert at Exh.106 the total yield of paddy crop was 3000 Kg. while he deposed that the minimum yield of paddy crop was 2500 Kg. per Hectore, which was certainly contrary to his report and as per the Magazine at M.104/3, it was 5500 Kg. per Hectore. As against it, on behalf of the claimants it was given out that in Kapadvanj Taluka, most of the claimants were taking paddy crop in monsoon season and total yield of paddy crop was more than 4000 Kg.per Hectore, but less than 8000 Kg. per Hectore. Taking an over all view of the matter, the Reference Court found that the minimum yield of paddy crop must be taken to be 4000 Kg. per Hectore. It appears that there too he applied the principle of coming to the conclusion of average price and on the same principle the rate has been found to be Rs.350/- per 100 Kg. i.e. Rs.3.50 per Kg. for the year 1990 and accordingly the value of the crop has been assessed at Rs.14,000/- per Hectore by multiplying Rs.4000 X Rs.3.50. We do not find that in arriving at this conclusion, the Reference Court has committed any error either of fact or of law and the view taken by the Reference Court is found to be reasonable and, therefore, the second grievance, which has been raised on behalf of the appellants before this court, is not tenable.

9. Learned A.G.P. has also submitted that certified copies of expert's report Exh.105 and 106 as produced by claimants in this case could not be relied upon as they were part of evidence in some other case. Firstly no such objection was taken by the department before the Reference Court and secondly it has been given out that not only in these groups of matters, in all other cases this is the practice which is being followed. In this view of the matter, we do not find that the order of Reference Court should be disturbed on this ground, when the ultimate conclusion arrived at by Reference Court is found to be just and proper.

10. Besides this the learned counsel for the respondents - claimants, has also relied upon two Division Bench decisions of this Court rendered in a group of 200 Appeals i.e. First Appeals Nos.4300 to 4501 of 1998 decided on 7.5.99 and yet another group of 126 Appeals i.e. First Appeals Nos.4682 to 4807 of 1998 decided on 30.4.99 with regard to the adjoining village,

wherein compensation was granted at a still higher rate than the rate of Rs.15/- per sq.mt., while the crops of paddy, etc. were the same. He has also made reference to certain observations made by the Division Bench in the group of Civil Applications Nos.2738 to 2788 of 1999 in First Appeals Nos.629 to 679 decided on 30.11.99 whereby the Applications seeking condonation of delay were rejected and while rejecting the Applications for condonation of delay, certain observations were made with regard to the merits, in which the compensation had been determined on the basis of annual yield of the land in question, which were agricultural lands situated in adjoining villages.

11. We find that after considering the entire evidence with regard to all the aspects and items, the Reference Court has fixed the total market price of the agricultural lands of village Sorna, which were concerned in these Reference Cases, at the rate of Rs.1500 per Are i.e. Rs.15/- per sq.mt. This ultimate finding of the Reference Court is wholly just and we do not find any lapse or any infirmity in the order so as to interfere with the same in these Appeals.

12. No other point has been raised.

13. In the result, all these 58 Appeals fail and the same are hereby dismissed. No order as to costs.