

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1439 of 2000

to

FIRST APPEAL No 1454 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed : YES
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

STATE OF GUJARAT THRO' SPECIAL LAND ACQUISITION OFFICER

Versus

NAVNITBHAI CHIMANBHAI PATEL

Appearance:

NR ND GOHIL, AGP for Appellants

MR GM AMIN for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 30/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals under section 54 of the Land Acquisition Act read with section 96, CPC at the instance of the State of Gujarat (the Special Land Acquisition Officer), challenging the common judgement and awards passed by the Reference Court under section 18 of the said Act.

2. The lands were acquired for the Narmada Project, Dholka branch canal. The lands were situated in the town of Dholka, Taluka Dholka, District Ahmedabad. The notification under section 4 of the Act was published on 24th September 1991. After following the due procedure prescribed by the Act the Special Land Acquisition Officer declared his award under section 11 offering compensation for the acquired lands at Rs.4.50ps per square meter. The land holders not having accepted the award preferred references under section 18 of the said Act, which were heard and decided by the Reference Court, which determined the market value of the acquired lands at Rs.100/- per square meter under the impugned judgement and awards. Hence the present appeals.

3. Having heard the learned counsel for the respective parties we find that the claimants-original land holders have led considerable evidence as to the fertility and the yield obtained by them from the agricultural lands in question. This evidence was led with a view to support their claim even by applying the capitalisation of yield method. However, the Reference Court rejected this evidence as not useful since no documentary evidence whatsoever in support of the oral evidence was led by the claimants. In other words, all the figures asserted by the claimants in their oral depositions rested only on their oral assertion. The Reference Court was, therefore, justified in observing that such evidence cannot be accepted without adequate corroboration, and it would be risky to determine market value on the basis of mere assertions on the part of the claimants.

4. The claimants further relied upon Exh.19 which was an order of the Collector granting Government land in favour of a cooperative society. The Reference Court however, did not consider this to be a comparable instance for the determination of market value of the

acquired lands, inasmuch as the said order was passed in the year 1997, which is six years after the section 4 notification in the instant case. Obviously there would have been considerable development in this span of six years and moreover the order of the Collector, on the face of it, does not disclose the reasons or the principles on which this price was determined by the Collector for offering the land in question. The Reference Court, therefore, rightly rejected Exh.19 as reliable evidence for the purpose of determining the market value.

5. The Reference Court also took into consideration Exh.17 and 18 which are sale deeds reflecting sale of lands in the vicinity of the acquired lands. It requires to be noted that Exh.17 is a sale deed dated 6th January 1992 i.e. about four months after the section 4 notification, whereas Exh.18 is a sale deed dated 7th September 1993, acting upon an earlier Banakhat dated 28th January 1992, which again is about 4 months after the section 4 notification.

6. The Reference Court while noting the contents, scope and effect of Exh.17 and 18, has chosen not to rely upon them as comparable pieces of evidence for the purpose of determination of market value, mainly because they are subsequent to the date of section 4 notification, although only by about four months. Another apparent reason for not relying upon these two documents is because they are pertaining to non-agricultural lands whereas the acquired lands are agricultural lands. In any case, if Exhs.17 and 18 had been relied upon by the Reference Court after making due allowance for the fact that they pertain to non-agricultural lands, the market value of the acquired lands would have been determined by the Reference Court at a far higher figure. However, as aforesaid, since the Reference Court has not chosen to rely upon Exhs.17 and 18, this could not possibly give any grounds for grievance on the part of the State.

7. That leads us to the consideration of the main piece of evidence upon which the Reference Court has relied upon. This is a sale deed at Exh.16, executed on 7th December 1988. It reflects a market value of Rs.133/- per square meter. The Reference Court took note of the fact that this sale pertains to non-agricultural land, whereas the acquired lands are agricultural lands. However, since no sale instances pertaining to agricultural land are on record, the Reference Court was obliged to consider whether such a sale could be taken

into consideration or not.

7.1 In this context the Reference Court found, and in our opinion rightly so, that it is by now well settled that such sale instances can be taken into consideration, provided due allowance is made for this factual distinction.

7.2 This Court in the case of State of Gujarat Vs. Abdul Nurbhai Mansuri, in First Appeal No.1598/88 decided on 26th March 1999, held that under these circumstances the Reference Court can rely upon a sale deed, dealing with non-agricultural land, and for the purpose of arriving at the market value in respect of agricultural lands, a deduction of 25% of the sale price reflected in the relevant document would both be justified as also appropriate.

7.3 A similar view has been expressed by the Supreme Court in the case of Rampiari Vs. Land Acquisition Collector, Solan, reported at AIR 1996 SC 3140, wherein while comparing the price reflected in a document dealing with developed land, for the purpose of determination of market value of non-developed land, it was held that a deduction on account of development charges at the rate of 33% would be justifiable.

7.4 On the basis of the aforesaid principles the Reference Court relied upon Exh.16 and deducted 25% from the sale price of Rs.133/- per square meter reflected by the said document. By making such deduction the Reference Court arrived at a figure of Rs.100/- per square meter which it declared to be the appropriate market value in respect of the acquired lands. The Reference Court thereafter granted other statutory allowances on the basis of this market value.

8. As discussed hereinabove, we find no infirmity with the approach of the Reference Court in law nor with its treatment of the evidentiary material on record.

9. Learned counsel for the appellant is unable to point out any principle in law and/or any fact situation which would justify any interference on our part in the present appeals.

10. In the premises aforesaid, we find that the impugned judgement and awards of the Reference Court require to be confirmed. We find and hold accordingly. Consequently these appeals are dismissed with no order as to costs.

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