

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL Nos. 4021 to 4055 of 1995

with

CROSS OBJECTION Nos. 56 to 90 of 1996

For Approval and Signature:

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 : 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

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STATE OF GUJARAT

Versus

RAVJIBHAI NARSIBHAI  
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Appearance:

MR ND GOHIL, AGP for Appellant  
MR YOGESH S LAKHANI for Respondent No. 1  
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CORAM : MR.JUSTICE Y.B.BHATT  
and  
MR.JUSTICE M.C.PATEL

Date of decision: 30/11/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.C.PATEL)

This is a group of 35 First Appeals filed by the State under Section 54 of the Land Acquisition Act read with Section 96 of the Code of Civil Procedure challenging the common judgment and awards dated 30th September, 1994 passed by the learned 4th Extra Assistant Judge, Rajkot in Land Reference Case Nos.313 of 1987 to 347 of 1987. The cross objections have been filed by the original claimants for claiming enhanced compensation.

2. Notification under Section 4 of the Land Acquisition Act was published on 05.05.1983 for acquiring lands belonging to the claimants situated in village Rangpar, Taluka Padadhari, District Rajkot. The lands were acquired for the purpose of Nyari 2 Irrigation Project work. The Land Acquisition Officer by his award dated 13.02.1987 awarded compensation at the rate of Rs.175/- per Are for Bagayat lands and Rs.115/- per Are for Jirayat lands. On reference under Section 18 of the Act, the Reference Court divided the lands into 5 groups and awarded compensation at the rates varying from Rs.265/- per Are to Rs.395/- per Are. The Reference Court also awarded Rs.10,000/- as compensation for the well in Land Reference Case Nos.324/87, 325/87, 326/87, 328/87, 330/87, 331/87, 334/87, 335/87, 336/87, 337/87, 338/87 and 339/87 (First Appeal Nos.4032, 4033, 4034, 4036, 4038, 4039, 4042, 4043, 4044, 4045, 4046 and 4047 of 1995).

3. The Reference Court relied mainly on one sale instance Exh.61 for determining the market value of the lands in question. The sale instance Exh.61 is dated 22.10.1981 and was in respect of a piece of land situated in the same village. It reflected the rate of Rs.395.34 per Are. Our attention is drawn to two decisions of the Division Bench. In First Appeal No.767/97 to 774/97 decided on 24.02.1998, the Division Bench confirmed the awards made by the Reference Court in respect of the lands in the same village acquired for the same project. The same sale instance was relied upon in the said group of cases and the Reference Court had awarded compensation at rates varying from Rs.277/- per Are to Rs.395/- per Are. The date of Notification under Section 4 was 20.01.1983. The other decision to which our attention is drawn was rendered by the Division Bench in First Appeal No.291/97 to 295/97, 297/97 and 298/97. There also, the

lands were acquired from the same village for the same project and the same sale instance was relied upon and the awards of the Reference Court were confirmed. The market value determined by the Reference Court in the present group of cases is on the same basis as in the said two groups of cases. The learned AGP is unable to show any distinguishing feature. The awards made by the Reference Court in the present group of cases will obviously be covered by the said decisions of the Division Bench. In the circumstances, there is no reason to interfere in these appeals with the market value and differential rates determined by the Reference Court.

4. However, the learned AGP contended that the Reference Court fell into error in making a separate award of compensation of Rs.10,000/- for the well situated in each land in 12 Land Reference Cases to which reference has already been made earlier. He relied on the decision of the Supreme Court in O. Janardhan Reddy vs. Spl. Dy. Collector [1994 (6) SCC 456]. The learned counsel for the respondent claimants had no answer to this contention and agreed that the award of separate compensation for the well was not justified in the circumstances of the case. In the result, the award of separate compensation for the well requires to be set aside.

5. So far as cross objections are concerned, the award of the maximum value of Rs.395/- per Are and differential rates for different groups of lands were confirmed in the previous decisions of the Division Bench cited earlier. The learned counsel for the claimants could not make any submissions on merits in support of the cross objections. The same are, therefore, liable to be dismissed.

6. No other contention has been urged by either side.

7. In view of the above discussion, First Appeal Nos.4032, 4033, 4034, 4036, 4038, 4039, 4042, 4043, 4044, 4045, 4046 and 4047 of 1995 corresponding to Land Reference Case Nos. 324/87, 325/87, 326/87, 328/87, 330/87, 331/87, 334/87, 335/87, 336/87, 337/87, 338/87 and 339/87 are partly allowed with no order as to costs and the separate award of compensation of Rs.10,000/- for the well in each case is set aside. Decree accordingly. The rest of the award made by the Reference Court is

confirmed in each of the said Appeals. As for the remaining Appeals by the State, there is no substance and the same are dismissed with no order as to costs. Cross objections also fail and are dismissed with no order as to costs.

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