

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS Nos. 1424 to 1431, 1433 to 1532, 1535  
to 1559, 1610 to 1634 of 1986  
(VERATIA VILLAGE)

with

FIRST APPEALS Nos.1348 to 1386, 1923 to 1973, 1430  
to 1469, 1691 to 1730, 2024 to 2063 of 1987  
(DEDAKADAD VILLAGE)

with

FIRST APPEALS Nos.1530 to 1580, 2064 to 2114, 1771  
to 1827, 2115 to 2164, 2165 to 2214, 2215 to  
to 2243 of 1987  
(VIRPAR VILLAGE)

with

FIRST APPEALS Nos.1866 to 1922, 1974 to 2023 of 1987  
(KHARAVEDHA VILLAGE)

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

and

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  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? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO
- 1 to 5 NO
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THE STATE OF GUJARAT

Versus

GOBAR RUPA & OTHERS

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Appearance:

MR ARUN D OZA GOVERNMENT PLEADER for Appellants

MR MANISH R BHATT and MR JR NANAVATI with

MR JAYANT P BHATT for Respondents  
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CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE D.H.WAGHELA

Date of decision: 31/08/2001

C.A.V. JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA

1. These appeals (total 764) are coming for reconsideration before this Court on account of the order of the Supreme Court in Civil Appeal No.7861-1960 of 1997 [ appeals arising out of S.L.P.(C) Nos.1511-1601 of 1996 decided with original O.A.Nos.79-8230/97 arising out of S.L.P.(C) Nos.1605-1744/96, 72/96 and 11446-11574/96 ]. According to the order of the Supreme Court, all the matters were remanded to this Court for considering the limited question of taking into account the different dates of notifications under Section 4 of the Land Acquisition Act, 1894 ('the Act' for short) in each of the matters and to make, wherever required, appropriate adjustments in the market value of the acquired lands and houses. It is indicated in the order that the valuation already determined by this Court might be taken as the basis for any upward adjustment of the market value wherever found necessary. The Supreme Court has also directed that the question of refunding the amounts, in cases where the amounts have been permitted to be withdrawn under the interim orders of this Court are in excess of the entitlement after final determination, they should not be asked to refund the excess amount may also be considered before the High Court and the orders to be passed by the High Court shall apply to all the persons affected under the relevant notifications dated 30.11.1978, 22.2.1979, 26.11.1981 and 1.3.1982 under Section 4 of the Act.

2. In view of the order as above, the rates at which compensation is required to be awarded for the lands and

houses acquired under the above notifications have to be finally determined. Therefore, the evidence and material relevant for the purpose is re-examined. These appeals are, for the sake of convenience, divided into four groups on the basis of the dates of relevant notifications issued in respect of the villages of which the lands were acquired.

3. The first group of appeals relates to village Veratia in District Jamnagar, where the lands were acquired, some of them with the constructions put upon them, for the purpose of irrigation scheme and where the notification under Section 4 was issued on 30.11.1978. After detailed examination of the evidence on record, the compensation was determined by this Court @ Rs.5/- per sq. mtr. for the open land and @ Rs.231/- per sq.mtr. for category 'A', Rs.144/- per sq.mtr. for category 'B', Rs.126/- per sq.mtr. for category 'C' and Rs.99/- per sq.mtr. for category 'D' of the constructed properties as per the categorization found in the award of the Land Acquisition Officer. Similarly, in the second group of appeals involving acquisition of lands of village Virpar where the date of notification was 22.2.1979, compensation for open land was determined at Rs.5/- per sq.mtr. and the constructed properties were categorized into seven categories for which the compensation per sq. mtr. was determined @ Rs.319/- for category 'A', Rs.250/- for category 'A-1', Rs.191/- for category 'B', Rs.173/- for category 'B-1', Rs.119/- for category 'C', Rs.105/- for category 'C-1' and Rs.77/- for category 'D'. In the third group of appeals relating to the lands of village Dedakdad, the notification was dated 26.11.1981 and the compensation awarded by this Court was @ Rs.5/- per sq.mtr. for the open land and the rate of compensation per sq.mtr. for the constructed properties was fixed at Rs.364/- for category 'A', Rs.255/- for category 'B', Rs.198/- for category 'C' and Rs.115/- for category 'D'. And, in the fourth group of appeals where the date of notification under Section 4 of the Act was 1.3.1982 and the lands acquired were of village Kharavedha, the compensation for the open land was fixed at Rs.5/- per sq.mtr. and as for the constructed properties, the category-wise rates per sq.mtr. were fixed at Rs.531/- for category 'A', Rs.500/- for category 'A-1', Rs.368/- for category 'B', Rs.291/- for category 'B-1', Rs.262/- for category 'B-2', Rs.180/- for category 'B-3', Rs.175/- per for category 'C', Rs.160/- for category 'C-1', Rs.152/- for category 'D' and Rs.139/- for category 'E'.

In all these groups of cases, the compensation

awarded at the rates as above was ordered to be supplemented by solatium @ 30% as also interest @ 9% per annum for the first year after taking possession of the properties and @ 15% thereafter till the amounts were realized.

4. There is no dispute about the fact that the lands and properties in question were acquired for the purpose of the same or similar irrigation project and the villages of which the lands were acquired were in the same area within few kilometers of each other. The categorization of the construction as also the basis of compensation as indicated by the Deputy Engineer after an extensive survey have been upheld. The only purpose for which the matters were remanded by the Supreme Court was that the rates of compensation were required to be revised in view of the successive dates of notifications. Arguing on this issue, the learned counsel for the respondents submitted that practically the whole of the villages had gone into submergence due to the irrigation projects for which the lands were acquired and the poor villagers have been ousted from the villages in which they were settled. The villages, though small, were very near to and well connected with taluka and district places and had the facilities of roads, schools, temples etc. As against that, the alternative lands which were provided to and availed of by some of the claimants were not suitable resulting into enormous emotional stress and deprivation. It was further submitted that the categorization and the rates of compensation fixed by the Land Acquisition Officer on the basis of the reports of the Deputy Engineer should not have been the sole basis for determining the compensation as the same were admittedly based on the schedule of rates (SOR) of the Government for the relevant year. It is a commonplace that a poor villager cannot buy the necessary building materials at those rates. There also was the reality of galloping inflation during the period of successive notifications as reflected in the S.O.R.'s and successive awards of the LAO, and, therefore, the rate of compensation was required to be suitably revised. As for the open land also, the rate of compensation was required to be suitably revised by increasing the same at least 12% per annum from the date of the first notification, i.e., 30.11.1978. It was also submitted that the rates of compensation for the constructed properties as determined by this Court for the lands of village Kharavedha in respect of which the date of notification is the latest in point of time, should be taken as the basis and reducing the same @ 12% per annum, the rates in respect of the other lands involved in the other three

groups of appeals may be applied. The difference sought to be effected by this method of reverse calculation would increase or reduce the rates of compensation in respect of the properties of village Veratia from Rs.231/-, Rs.144/-, Rs.126/- and Rs.99/- to Rs.330/-, Rs.229/-, Rs.109/- and Rs.95/- for A, B, C and D categories of constructed properties respectively. Whereas increasing the rate of compensation @ 12% per year according to the successive dates of notifications, taking the rates applied to lands of village Veratia as the base, the rates for the lands of village Kharavedha will have to be revised from Rs.531/-, Rs.368/-, Rs.175/and Rs.152/- to Rs.328/-, Rs.205/-, Rs.180/- and Rs.141/- per sq.mtr. for the constructed properties in categories A, B, C and D respectively. Re-determining the rates in either way results into, in some categories, even further reduction from the rates already determined in the judgments of this Court which would not be in conformity with the order of the Supreme Court. Therefore, in consonance with the directions of the Supreme Court, accepting the suggestions of the claimants to a limited extent and resorting to some inevitable guesswork, we prefer to revise the rates as under after rounding off to the nearer round figures. The upward revision as under should take care of the difference between the actual retail market prices of the building materials and the SOR as also the increasing market prices from year to year.

(i) Accordingly, in the first group of appeals relating to the lands of village Veratia, we reconfirm the rate of compensation at Rs.5/- per sq.mtr. for the open land and revise the rate of compensation for the constructed properties to Rs.250/- for category 'A', Rs.160/- for category 'B', Rs.140/- for category 'C' and Rs.110/- for category 'D' of the constructed properties.

(ii) As for the lands and buildings of village Virpar which were acquired by notification dated 22.2.1979, the rate of compensation for the open land shall stand increased by 20 paise to Rs.5.20 per sq.mtr. and as for the constructed properties, rounding off the rates, the compensation per sq. mtr. shall be calculated Rs.330/- for category 'A', Rs.260/- for category 'A-1', Rs.200/- for category 'B', Rs.180/- for category 'B-1', Rs.160/- for category 'C', Rs.150/- for category 'C-1' and Rs.120/- for category 'D'.

(iii) In the case of lands of village Dedakdad for the acquisition of which notification was issued on 26.11.1981, the rate of compensation for the open land

shall be Rs.7/- per sq.mtr. And as for the constructed properties, the claimants shall be entitled to compensation per sq.mtr. @ Rs.370/- for category 'A', Rs.260/- for category 'B', Rs.220/- for category 'C', Rs.140/- for category 'D'.

(iv) In the fourth group of appeals relating to village Kharavedha, where the date of Sec.4 notification is 1.3.1982, the claimants shall, for the open lands, be entitled to compensation at Rs.7.50/- per sq.mtr. And as for the constructed properties, the compensation shall be calculated in ten different categories at the rates as under:

Category Per Sq.mtr. Rs.

1. A 550/-
2. A-1 520/-
3. B 380/-
4. B-1 300/-
5. B-2 270/-
6. B-3 220/-
7. C 210/-
8. C-1 200/-
9. D 160/-
10. E 150/-

5. In all the above cases, the claimants shall also be entitled to solatium @ 30% and interest @ 9% per annum for the first year of taking possession of the properties and @ 15% per annum thereafter till the amounts are realized. However, due to the lapse of a long time since the impugned judgments in the land acquisition references were delivered and in view of the fact that many of the claimants have fully or partially withdrawn the small amounts of compensation that were deposited under the interim orders of this Court, none of the claimants in any of these cases shall be required to refund any amount to the appellants. In the cases where amounts lying deposited are in excess of the amounts determined as above, the total due amounts of compensation shall be calculated and interest accrued on that part of the amount lying deposited shall be paid to the respective claimants; and the remaining amounts of the deposited compensation as also the interest accrued on that part of the amount shall be refunded to the appellants. All these 764 appeals are partly allowed as above and in the facts and circumstances, there shall be no order as to costs.

( M.R.Calla, J. )

Sd/-

( D.H.Waghela, J. )  
(KMG Thilake)