

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 2522 of 2006****To****FIRST APPEAL No. 2545 of 2006****For Approval and Signature:****HONOURABLE MR.JUSTICE J.M.PANCHAL****HON'BLE SMT. JUSTICE ABHILASHA KUMARI**

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1 Whether Reporters of Local Papers may
be allowed to see the judgment ?

2 To be referred to the Reporter or not
?

3 Whether their Lordships wish to see
the fair copy of the judgment ?

4 Whether this case involves a
substantial question of law as to the
interpretation of the constitution of
India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the
civil judge ?

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GENERAL MANAGER - Appellant(s)**Versus****NATVARLAL VANMALIBHAI & 1 - Defendant(s)**

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Appearance :

Mr.S.N.Shelat,learned senior counsel, with MR MG
NAGARKAR for Appellant(s) : 1,
MR AJ PATEL for Defendant No.1

Mr.S.S.Shah,learned Government Pleader for Defendant
No.2 in First Appeal Nos.2522 to 2524 of 2006.

Mr.Pathik Acharya,learned Assistant Government

Pleader for Defendant No.2 in First Appeal Nos.2525 to 2538 of 2006.

Mr.Jaswant K.Shah,learned Assistant Government Pleader for Defendant No.2 in First Appeal Nos.2539 and 2540 of 2006.

Ms.Bhavika Kotecha,learned Assistant Government Pleader for Defendant No.2 in First Appeal Nos.2541 to 2545 of 2006.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 29/06/2007

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

1. These appeals filed under Section 54 of the Land Acquisition Act, 1894 ("the Act" for short) read with Section 96 of the Code of Civil Procedure, 1908, are directed against the common judgment and award dated May 31,2005, rendered by the learned Joint District Judge, Fast Track Court No.3, Bharuch in Land Acquisition Reference Nos.697 of 2002 to 711 of 2002, 726 of 2002 to 730 of 2002 and 386 of 2003 to 389 of 2003, by which the claimants have been awarded additional amount of compensation at the rate of

Rs.19.50 Ps. per sq.mt. for their acquired lands, over and above the compensation offered to them by the Special Land Acquisition Officer by his award at the rate of Rs.5/- per sq.mt.

2. The General Manager, Gujarat Industrial Development Corporation, Gandhinagar ("G.I.D.C." for short) proposed to the State Government to acquire the lands of village Sardarpura, Taluka - Jhagadia, District - Bharuch for the public purpose of construction of residential colony for G.I.D.C. The proposal culminated into publication of Notification under Section 4 of the Act in the Official Gazette on May 20, 1997, which was followed by publication of declaration made under Section 6 of the Act in the Official Gazette on August 28, 1998. The interested persons were served with notices for determination of compensation payable to them. Having regard to the materials placed before him, the Special Land Acquisition Officer made award and offered compensation to the claimants at the rate of Rs.5/- per sq.mt. Feeling aggrieved the claimants sought references. Accordingly references were made, which were registered as noticed earlier.

3. On behalf of the claimants witness Sureshbhai Karsanbhai was examined at Exh.59 but no witness was examined on behalf of the acquiring authorities. What was relied upon by the claimants was previous award of the Reference Court relating to the lands of village Kharchi, District Bharuch in support of the claim for enhanced compensation. The said award was produced at Exh.72. Placing reliance on the said previous award, the Reference Court has awarded additional amount of compensation to the claimants at the rate of Rs.19.50 Ps. per sq.mt., giving rise to the above numbered appeals.

4. This Court has heard Mr.S.N.Shelat, learned senior advocate, for the appellant as well as Mr.A.J.Patel, learned counsel for the claimant/claimants in each appeal and Mr.Pathik Acharya, learned Assistant Government Pleader, for the Special Land Acquisition Officer at length.

5. There is consensus between the parties that the matters deserve to be remanded to the Reference Court for fresh decision on merits as First Appeal Nos.240 to 323 of 2006 directed against common judgment and award dated January 20,2005 rendered in

Land Acquisition Reference Nos.797 of 2002 to 880 of 2002 relating to the lands of village Kharchi, District Bharuch were allowed and the matters have been remanded to the Reference Court for fresh consideration after permitting the parties to lead fresh evidence in support of their respective claims. In view of the consensus between the parties, the appeals will have to be allowed.

6. For the foregoing reasons, the appeals succeed. The common judgment and award dated May 31,2005, rendered by the learned Joint District Judge, Fast Track Court No.3, Bharuch in Land Acquisition Reference Nos.697 of 2002 to 711 of 2002, 726 of 2002 to 730 of 2002 and 386 of 2003 to 389 of 2003 is set aside. The matters are remitted to the Reference Court for deciding the same afresh after permitting the parties to lead fresh evidence in support of their respective claims. It is clarified that pursuant to order passed in Civil application No.8759 to 8782 of 2006, the claimants have been permitted to withdraw 50% of the amount awarded by the Reference Court. The said amount shall be adjusted by the Reference Court while deciding the matters finally pursuant to this order. The Reference

Court shall make an endeavour to hear the matters remanded alongwith Land Acquisition Reference Nos.797 of 2002 to 880 of 2002. As Notification issued under Section 4(1) of the Act was published in the Official Gazette on May 20, 1997 for acquiring the lands in question, the Reference Court is directed to dispose of the matters as early as possible and preferably within six months from the date of receipt of the writ.

7. The appeals stand allowed to the extent indicated hereinabove. There shall be no orders as to costs. The Registry is directed to draw decree in terms of this judgment immediately.

(J.M.Panchal,J)

(Smt.Abhilasha Kumari,J)

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