

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 5299 of 2010****With****FIRST APPEAL NO. 5298 of 2010****With****FIRST APPEAL NO. 5310 of 2010****With****FIRST APPEAL NO. 5314 of 2010****With****FIRST APPEAL NO. 5155 of 2007****TO****FIRST APPEAL NO. 5170 of 2007****With****FIRST APPEAL NO. 3613 of 2012****TO****FIRST APPEAL NO. 3615 of 2012****With****FIRST APPEAL NO. 5297 of 2010****With****FIRST APPEAL NO. 5311 of 2010****With****FIRST APPEAL NO. 5313 of 2010****With****FIRST APPEAL NO. 5300 of 2010****To****FIRST APPEAL NO. 5302 of 2010****With****FIRST APPEAL NO. 5309 of 2010****With****CIVIL APPLICATION NO. 12811 of 2012****In****FIRST APPEAL NO. 3613 of 2012****TO****CIVIL APPLICATION NO. 12813 of 2012****In****FIRST APPEAL NO. 3615 of 2012****With****FIRST APPEAL NO.1555 OF 2012****WITH****FIRST APPEAL NO.1557 OF 2012****With****CIVIL APPLICATION NO. 6265 of 2012****In****FIRST APPEAL NO. 1555 of 2012****to****CIVIL APPLICATION NO. 6266 of 2012****In****FIRST APPEAL NO. 1557 of 2012**

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE D.H.WAGHELA
and

HONOURABLE MR.JUSTICE G.R.UDHWANI

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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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NAGARPALIKA DAHOD THROUGH SECRETARY....Appellant
Versus

RASUL IBRAHIM DOKILA & 4....Defendants

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Appearance:

F.A. No.5297 to 5299, 5300 to 5302, 5309 to 5311, 5313 to 5314 of 2010, F.A. Nos.3613 to 3615, 1555 and 1557 of 2012, C.A. No.12811 to 12813 of 2012, C.A. No.6265 to 6266 of 2012

MR AJ SHASTRI, LEARNED ADVOCATE for the Appellants
MR MEHUL S SHAH, MR.SUNIL S JOSHI, MR Y M THAKKAR, MR AMAR D MITHANI and MR SIRAJ R GORI LEARNED ADVOCATES for the Respondents.

MR PRAKASH JANI, LEARNED GOVERNMENT PLEADER WITH MR NIRAJ ASHAR, LD. AGP for the State.

F.A. No.5155 to 5170 of 2007

MR RAKESH GUPTA, LD.ADVOCATE for M/S. TRIVEDI & GUPTA, for Appellants.

MR.MEHUL S SHAH, MR.SUNIL S JOSHI, MR Y M THAKKAR, MR AMAR D MITHANI and MR SIRAJ R GORI, LEARNED ADVOCATES for the Respondents.

MR PRAKASH JANI, LEARNED GOVERNMENT PLEADER WITH MR NIRAJ ASHAR, LD. AGP for the State. RULE SERVED for the Defendants No. 1 - 4

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CORAM: HONOURABLE MR.JUSTICE D.H.WAGHELA
and
HONOURABLE MR.JUSTICE G.R.UDHWANI
Date : 28/12/2012
ORAL JUDGMENT
(PER : HONOURABLE MR.JUSTICE D.H.WAGHELA)

All the appeals are arising from the common judgment and order dated 09/09/2004 of learned Civil Judge (SD), Godhra in group of Land Acquisition Cases bearing Nos.583 to 600 of 1992 with LAR No.593 of 1992 being treated as the main Reference Case. Primarily, the appeals have been filed by Nagar Palika, Dahod and other group of appeals is filed by the Gujarat Water Supply and Sewerage Board on account of the fact that, by virtue of the impugned judgment, joint and several liability to make payment of additional amount of compensation has been fixed. Even as both the aforesaid parties sought to challenge the award on merits, insofar as the additional amount of compensation was ordered to be paid, both parties sought to escape their liability for making payment under the impugned award.

2. At the end of arguments, it was fairly conceded by learned Counsel appearing on both sides for each of the respective party that the part of the judgment by which additional compensation was awarded, was not assailable on any valid ground. As for the liability to satisfy the award, it was fairly conceded that although the primary responsibility of satisfying the award may be that of the Collector or the Land Acquisition Officer, in view of the scheme and provisions of the Land Acquisition Act, 1984, the indisputable fact was that the lands in question were acquired for the purpose of Dahod Nagar Palika and its project of underground sewerage system

and, therefore, in short, the liability to pay to the original claimants amounts of additional compensation in terms of the impugned judgment and award, has been accepted by Dahod Nagar Palika in the peculiar facts and circumstances and the only question that remained was within what time the remaining amount required to be paid by the Dahod Nagar Palika shall be paid.

3. It was submitted before this Court in a tabular form that the total sum of Rs.1,68,16,777/- has already been deposited, although in some of the LAR cases even execution proceedings were not initiated in the trial Court. It was also submitted that at the time of admission of their appeals, the Gujarat Water Supply and Sewerage Board has deposited Rs.15 Lacs under order of the Court, which is required to be refunded to that agency as they had admittedly participated in the proceedings only as an implementing agency.

4. Under the circumstances it was submitted, on written instructions of Dahod Nagar Palika by learned Counsel Mr.Shashtri, that for the payment of remaining amounts in respect of the Land Reference Cases, regardless of execution proceedings having been initiated so far or not, four months time may be granted to avoid any further complication. Learned Counsel appearing for the original claimants fairly conceded that all the amounts due to the original claimants including interest accruing thereon, may be paid to them within outer limit of 30th April, 2013 by account payee cheque on due identification of each of the claimants by referral Court with the understanding and instruction that the amounts already deposited pursuant to the execution proceedings

initiated by the claimants and the interim orders herein, may be disbursed to the respective claimants in accordance with the impugned judgment and award and the remaining amount may be paid to all the rightful claimants latest by 30th April, 2013.

5. Upon the above understanding being recorded and directions being issued in the aforesaid terms, the parties have not pressed for an elaborate reasoned order and requested for disposal of the appeals without any order as to costs. Accordingly, the appeals are disposed recording the above understanding. The parties shall abide by the above understanding and payments shall be made accordingly by Dahod Nagar Palika. The amount of Rs.15,00,000/- deposited by the Gujarat Water Supply and Sewerage Board shall be refunded to the Board by the Registry. Civil Applications stand disposed as not surviving.

(D.H.WAGHELA, J.)

(G.R.UDHWANI, J.)

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