

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 2399 of 2012****With****FIRST APPEAL NO. 2411 of 2012****With****FIRST APPEAL NO. 2416 of 2012****TO****FIRST APPEAL NO. 2418 of 2012****With****FIRST APPEAL NO. 2420 of 2012****TO****FIRST APPEAL NO. 2422 of 2012****With****FIRST APPEAL NO. 2425 of 2012****TO****FIRST APPEAL NO. 2426 of 2012****With****FIRST APPEAL NO. 2429 of 2012****TO****FIRST APPEAL NO. 2430 of 2012****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE Z.K.SAIYED**

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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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SPECIAL LAND ACQUISITION OFFICER & 1....Appellant(s)**Versus****PATEL NATHUBHAI MANILAL & 3....Defendant(s)**

===== Appearance:

MR PP BANAJI AGP for the Appellant(s) No. 1 - 2
 MR KM SHETH, ADVOCATE for the Defendant(s) No. 1 - 2 , 4
 RULE SERVED for the Defendant(s) No. 1 - 2 , 4
 UNSERVED-EXPIRED (R) for the Defendant(s) No. 3

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CORAM: HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 30/04/2013

ORAL JUDGMENT

1. By filing these appeals under Section 54 of the Land Acquisition Act, 1894 ("the Act" for short) read with Section 96 of the Civil Procedure Code, 1908, the appellant has challenged the legality of common judgment and award dated 31.12.2010 passed by the learned Principal Senior Civil Judge, Gandhinagar, in Land Acquisition Reference Case Nos.96/2004, 97/2004, 99/2004, 101/2004, 104/2004, 106/2004, 109/2004, 110/2004, 111/2004, 113/2004, 114/2004 and 115/2004 by which the Reference Court has awarded in all compensation to the claimants at the rate of Rs.104.48 paise per sq.mtr. as additional amount of compensation.

2. Executive Engineer, Narmada Project Patnagar Yojna, Section-3, Gandhinagar, made a proposal to the State Government to acquire lands of Village – Chhala, Ta. Gandhinagar, District – Gandhinagar, for the purpose of construction of remaining part of village : Giyod on Chhala-Giyod-Halisa-Naroda-Dahegam Road. On perusal of the said proposal, the State Government was satisfied that the lands of Village – Chhala were likely to be needed for the said purpose. Therefore, Notification under Section 4(1) of the Act was issued, which was published in the Official Gazette on 27.7.2000. After considering objections from the claimant, necessary report contemplated under section 5A(2) of the Act was forwarded by the Special Land Acquisition Officer to the State Government and on considering the said report, Government was

satisfied that the land of village – Chhala were needed for the public purpose as mentioned above.

3. Therefore, declaration was made under Section 6 of the Act, which were published in the Official Gazette on 8.11.2001. Thereafter, Land Acquisition Officer offered compensation to the present claimants at the rate of Rs.10/- per Sq. Mtr. Since the said amount of compensation was inadequate, the claimants submitted application under Section 18 of the Act requiring the Officer to refer their case to the Court for the purpose of determination of just amount of compensation payable to them and accordingly, References were made to the Reference Court, Gandhinagar, which was registered as aforesaid.

4. The claimants have been examined in their respective case, stating that the lands acquired were highly fertile and that each claimants were earning substantial income from the sale of the agricultural produces, the claimants produced previous awards of the Reference Court relating to the lands of village – Chhala, wherein the award delivered in LAR No.756 of 1998 to 767 of 1998. It is also stated by the claimants that they have produced copy of the judgment of the Reference Court passed in the L.R.C. No.756 of 1998 to 767 of 1998 wherein the land of village Chhala were acquired by the Government for the public purpose and in that regard, Reference Court has awarded amount of compensation at the rate of Rs.53.48paise per sq.mtrs. in all. The Reference Court also awarded Rs.104.48Ps. as additional compensation in L.R.C. No.96/2004, 97/2004, 99/2004, 101/2004, 104/2004, 106/2004, 109/2004, 110/2004, 111/2004, 113/2004, 114/2004 and 115/2004. The witness examined on behalf of the claimant was cross-examined by the appellants but nothing substantial could be elicited.

5. On behalf of the appellants, it is was submitted that claimants have

failed to prove that the compensation awarded by the Special Land Acquisition Officer is inadequate and they have failed to prove that the lands under reference and under previous award are not similar and the award passed by the Land Acquisition Officer is determined after considering several aspects and therefore, the award passed by the officer is proper.

6. On appreciation of the evidence adduced by the claimant, the Reference Court was of the opinion that previous award of the Reference Court relating to the lands of village Chhala was relevant piece of evidence and furnished good guidance for the purpose of determining market value of the lands subsequently acquired from this village. After placing reliance on the previous award of the Reference Court, the Reference Court has awarded compensation at the rate of Rs.104.48ps. per sq.mrs. by impugned award, giving rise to these appeals. A decision in the case of Special Land Acquisition Officer Vs. Motibhai Mohanbhai reported in 1997(2) GLH 773, wherein it is held that “when comparable sale instances of land in the same village is not available, the market value of land is determined by taking into consideration by the amount awarded in respect of similar land acquired in adjoining village some years before and increasing the said amount by 10% for each year by way of appreciation from the date of the said award till the notification under Section 4(1) published in respect of the land in question. Basis adopted for determination of market value is legal, just and reasonable not warranting interference by the High Court under Section 54 of the Act.” One another decision in the case of Deputy General Manager of O.N.G.C. Vs. Chaturji Lalji reported in 1998(1) GLR 130 for aspect of determination of compensation on the basis of 10% price rise.

7. This Court has heard Mr. Bhatt, learned Assistant Government

Pleader for the appellants and perused the judgment delivered by this Court in First Appeal Nos. 1733 of 2012 to 1734 of 2012, which is of the same village, on which Reference Court has relied while delivered the Award. What was relied upon by the claimant in support of his claim for enhanced compensation was previous award of the Reference Court relating to the lands of village – Chhala which was produced before the Reference Court. It is admitted fact that against the judgment of village Chhala, Government has preferred Appeals before the higher forum and the said judgment is confirmed by this Court. The previous award of the Reference Court relating to the land of village Chhala, which have attained finality can be relied upon as good piece of evidence for the purpose of determining the market value of nearby village. Accordingly, the Reference Court has relied on the judgment of same village – Chhala and after considering the evidence in detail, came to the conclusion that in case of same village, Notification under section 4 was issued on 20.9.1990 whereas in the present case, Notification under Section 4 of the Act was issued on 27.7.2000, therefore, there is difference of 9 years in between two Notifications issued under Section 4 of the Act. Considering the aforesaid decisions, 10% increase per year has rightly been awarded by the Reference Court and the Reference Court awarded increase @10% per year on Rs.60.48 per Sq. Mtr. and it would come to Rs.6/- and for nine years, it would come to Rs.54/- per Sq. Mtr. Therefore, the market value of the acquired land of the claimants comes to Rs.114.48 per Sq. Mtr. (Rs.60.48 + Rs.54 considering 10% increase). The Special Land Acquisition Officer has already awarded Rs.10/- per Sq. Mtr. therefore, after deducting Rs.10/- from Rs.114.48, it comes to Rs.104.48 per Sq. Mtr. Therefore, the Reference Court awarded Rs.104.48Ps. Per Sq. Mtr. as additional amount of compensation. I have considered the decisions rendered by this Court in First Appeal No.2414 of 2000 to 2426 of 2000, First Appeal No.2440 of 2011, First Appeal

Nos.1606 of 2012 to 1614 of 2012 and First Appeal No.454 of 2013 for considering the aspect of 10% increase in market price. Therefore, no error could be pointed by the learned Assistant Government Pleader necessitating interference of this Court with the award impugned in the instant appeals. The learned Assistant Government Pleader could not persuade this Court to take a view different than the one which is taken by the Reference Court on appreciation of evidence. Under the circumstances, the appeals are liable to be dismissed.

8. In view of above, the appeals fail and are dismissed. There shall be no order as to costs.

(Z.K.SAIYED, J.)

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