

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 1575 of 1990****With****FIRST APPEAL NO. 1576 of 1990****FOR APPROVAL AND SIGNATURE:****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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RANJITSINHJI DILUBHA JADEJA....Appellant(s)

Versus

SPECIAL LAND ACQUISITION OFFICER....Defendant(s)

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Appearance:

MR HM JADEJA, ADVOCATE for the Appellant(s) No. 1

GOVERNMENT PLEADER for the Defendant(s) No. 1

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CORAM: HONOURABLE MR.JUSTICE G.R.UDHWANI**Date : 10/05/2013****ORAL JUDGMENT**

Both these appeals arise out of common judgment and award passed by the learned 2nd Extra assistant Judge, Gondal Dis: Rajkot dated 31/07/1984 in as many as seven Land Acquisition Cases, amongst whom Land Reference Case No.2 of 1979 gives rise to First Appeal No.1575 of 1990 and Land Reference Case No.4 of 1979 gives rise to First Appeal No.1576 of 1990. By the said judgment and award, compensation in respect of the various land, including those of the appellants, came to be enhanced to Rs.120/Are.for irrigated land and Rs.80/Are for non-irrigated land. The appellants are dissatisfied with that award and have prayed for enhancement.

2. The argument advanced by the learned Counsel for the appellants is that the reference court made an award on the basis of sale instance of 1971; whereas Section 4 Notification in the present case came to be issued on 29/12/1976 and 09/02/1977 respectively and Section 6 Notification was issued on 15/05/1977 and therefore, in his submission, the award is required to be suitably enhanced. Learned Counsel for the appellants submitted that on the lands in question, the well, electricity connection, pipe-line and tower were in existence, which fact was established before the reference court, but the claim came to be declined for want of documentary evidence. In his submission, since the aforesaid things were in existence on the land in question, the appellants were required to be suitably awarded.

3. Vehemently opposing the contentions raised by the learned Counsel for the appellants, learned Assistant Government Pleader, Mr. Rahul Dave, contended that as many as, 16 sale instances were considered by the Special Land Acquisition Officer, ranging between 1971 and 1976 and the reference court has suitably enhanced the award and in his submission, there is no further scope of enhancement and therefore, the appeals may be dismissed.

4. Having heard learned Counsel for the parties and appreciated the evidence on record, it appears that before the Reference Court two previous awards being LAQ No.13 of 1978 and 21 of 1978 dated 22/04/1983 were brought on record. In those awards, it appears that a sale instance of 1971 of Village Roghel was considered and as per the said sale instance transaction was done at the rate of Rs.90/- per Are and the Court valued the lands at the rate of Rs.120/- per Are (for irrigated lands) and Rs.80/- per Are (for non-irrigated lands). It appears that the said award was accepted by the acquiring authority. In that view of the matter, it is apparent that the reference court had been lenient to the appellants by adopting the award in respect of land acquisition cases of 1978. Learned Counsel for the appellants is unable to show any material on the basis of which, the value of the lands as ascertained by the reference court can be assailed.

5. Insofar as the claim as to pipelines, tower and electricity installation in Survey No.166/1 is concerned, no evidence was brought on the record of either the acquiring authority or of the reference court. Therefore, the reference court was justified in rejecting such unsubstantiated claim.

6. Insofar as, Survey Nos.162/2, 164/2/, 164/4 and 162 were concerned, claim for electricity connection, pipelines and tower were made, but without any evidence. Even, during the inquiry under Section 9 of the Land Acquisition Act, 1894, no such things were found on the lands in question. Therefore, the reference court was justified in declining the claim.

7. Under the circumstances, there is no substance in these appeals. The appeals must fail and are accordingly dismissed.

(G.R.UDHWANI, J.)

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