

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****FIRST APPEAL NO. 3548 of 2007****With****FIRST APPEAL NO. 3549 of 2007****TO****FIRST APPEAL NO. 3557 of 2007****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE KS JHAVERI****and****HONOURABLE MR.JUSTICE G.B.SHAH**

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 or any order made thereunder ?	

INDIAN OIL CORPORATION LTD.....Appellant(s)

Versus

MANHARLAL GIRDHARLAL DALWADI & 2....Defendant(s)

Appearance:

MR. M.M. BHATT, LEARNED SENIOR ADVOCATE WITH MRS MAUNA M BHATT, ADVOCATE for the Appellant(s) No. 1

MR. DHAWAN JAYSWAL, AGP for the Defendant(s) No. 2 - 3

MR BS PATEL, ADVOCATE for the Defendant(s) No. 1

MRS RANJAN B PATEL, ADVOCATE for the Defendant(s) No. 1

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CORAM: **HONOURABLE MR.JUSTICE KS JHAVERI**  
and  
**HONOURABLE MR.JUSTICE G.B.SHAH**

Date : 30/06/2015

**COMMON ORAL JUDGMENT**

**(PER : HONOURABLE MR.JUSTICE KS JHAVERI)**

1. The Present Appeals have been filed by the appellant-Indian Oil Corporation Limited under Section 54 of the Land Acquisition Act read with Section 96 of the Code of Civil Procedure against the judgment and award dated 08.01.2007 passed by the 6<sup>th</sup> Additional Senior Civil Judge (S.D.), Vadodara in Land Acquisition Reference Nos. 1170 of 1998 to 1179 of 1998, whereby the Reference Court has granted compensation to the claimants at the rate of Rs.14/- per sq. fit with interest at the rate of 9% per annum from the date of taking possession till one year and thereafter 15% per annum till its realization. The Reference Court has also granted additional compensation under Section 23(1)(a) at the rate of 12% on the market value from the date of Notification under Section 4 of the Act till the date of award of Land Acquisition Officer or from the date of taking over possession of the land, whichever is earlier. The Reference Court also granted solatium at the rate of 30% on the market value of the acquired land.

2. The facts, in brief, are that the lands of the original claimants situated at village Asoj, District-Vadodara were acquired

and a Notification under Section 4 of the Act came to be issued on 06.12.1995. Thereafter, Notification under Section 6 of the Act came to be published on 6.3.1996. After following the due procedure of law, the Special Land Acquisition Officer awarded compensation for the acquired land at the rate of Rs.6.30/- per sq. meter in respective cases.

2.1. Being aggrieved by the said award, the original claimants preferred References under Section 18 of the Land Acquisition Act. The Reference Court after hearing learned advocates for the parties and after perusing the record decided the References and passed the award as stated hereinabove. Feeling aggrieved by the aforesaid award, the present appeals have been preferred by the appellant on the grounds set out in the memo of appeals.

3. Mr. Bhatt, learned Senior Advocate for the appellant has contended that the Reference Court has committed an error in passing the impugned judgment and award. He further contended that the Reference Court has committed an error in placing the reliance in respect of sale instance at village Manjusar as the land of the said village was not at all comparable to the present acquired land. It is submitted by the learned Senior Advocate that the Reference Court ought to have accepted the price awarded for the village Dumad, which is adjacent to village Asoj.

3.1. Learned Senior Advocate for the appellant has further

submitted that the lands which were acquired were agricultural lands and it might not have used for the industrial or non-agricultural purpose. Therefore, the Reference Court ought not to have ascertained the market price of the lands in question at Rs.140/- per sq. meter.

3.2. In support of his contentions, learned Senior Advocate for the appellant has relied upon the decision of the Apex Court in the case of ***Bhupal Singh vs. State of Haryana***, reported in **2015(0) GLHEL-SC 56395**. By making the above submissions and by relying on the aforesaid decision, the learned Senior Advocate for the appellant urged that this Court may allow these appeals and set aside the impugned judgment and decree passed by the Reference Court.

4. On the other hand, Mr. Patel, learned advocate for the respondent No.1 has supported the impugned judgment and award passed by the Reference Court. He submitted that the lands which were acquired were situated in the prime location, therefore, he urged that this Court may not interfere with the impugned judgment and award of the Tribunal and dismiss the present appeals.

5. We have heard Mr. Bhatt, learned Senior Advocate for the appellant, Mr. Patel, learned advocate for the respondent No.1 and Mr. Jayswal, learned AGP for the respondent Nos. 2 and 3 and

perused the material on record. It appears that for the acquisition of lands of village Dumad, which is adjacent to village Asoj, the market price was fixed by the Reference Court at Rs.77/- per sq. meter. In the aforesaid acquisition, Section 4 Notification was issued on 2.12.1995. In the present case Notification of Section 4 was issued on 06.12.1995. Therefore, we are of the considered opinion that the Reference Court has committed an error in awarding Rs.140/- per sq. meter for the lands in question. In our opinion if Rs.100/- per sq. meter is awarded, the same would meet ends of justice.

6. Considering the facts and circumstances of the case as also the decision of the Apex Court in the case of *Bhupal Singh vs. State of Haryana (supra)*, the present appeals are ***partly allowed***. The impugned judgment and award dated 08.01.2007 passed by the 6<sup>th</sup> Additional Senior Civil Judge (S.D.), Vadodara is hereby modified to the extent that the original claimants are entitled for additional compensation at the rate of Rs.100 per sq. meter in stead of Rs. 140/- per sq. meter. Rest of the judgment and award is hereby confirmed. The excess amount will be refunded to the appellant. The additional amount at the rate of Rs.100/- per sq. meter be given to the claimants by account payee cheque. Record and Proceedings be sent back to the concerned Court below forthwith.

**(K.S.JHAVERI, J.)**

**(G.B.SHAH, J.)**

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