

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/FIRST APPEAL NO. 733 of 2017****With****R/FIRST APPEAL NO. 734 of 2017****With****R/FIRST APPEAL NO. 735 of 2017****With****R/FIRST APPEAL NO. 736 of 2017****With****R/FIRST APPEAL NO. 737 of 2017****With****R/FIRST APPEAL NO. 738 of 2017****With****R/FIRST APPEAL NO. 816 of 2017****With****R/FIRST APPEAL NO. 972 of 2017****With****R/FIRST APPEAL NO. 973 of 2017****With****R/FIRST APPEAL NO. 974 of 2017**

=====

THAKOR JAGATSINH BHIKHAJI

Versus

SPECIAL LAND ACQUISITION OFFICER

=====

Appearance:

MR AV PRAJAPATI(672) for the PETITIONER(s) No. 1,1.1,1.2,1.3

DS AFF.NOT FILED (N)(11) for the RESPONDENT(s) No. 1,2

MR AJAY R MEHTA(453) for the RESPONDENT(s) No. 2

=====

CORAM: HONOURABLE MR.JUSTICE S.R.BRAHMBHATT**and****HONOURABLE MR.JUSTICE A.G.URAIZEE****Date : 11/10/2017****COMMON ORAL ORDER****(PER : HONOURABLE MR.JUSTICE A.G.URAIZEE)**

1. This bunch of appeal under Section 54 of the Land Acquisition Act read with Section 96 of the Code of Civil Procedure at the instance of the claimants are directed against the common judgment and award dated 04.04.2013 passed by the learned 4th Additional Senior Civil Judge,

Mehesana as the appellants are not satisfied with the compensation awarded thereunder.

2. The facts giving rise to these appeals as could be gathered from the impugned judgment are that the lands belonging to the claimants situated at village Thanpura (Katosan) Taluka and District – Mehesana came to be acquired for the project known as NKLR of the ONGC, Notification under Section 4 of the Act was published on 14.11.05, while notification under Section 6 of the Act was published on 19.07.2016. The special Land Acquisition Officer declared his award on 28.01.2008, where-under, compensation at the rate of Rs.6/- per sq. meter came to be awarded. The appellants were not satisfied with the compensation awarded by the Special Land Acquisition Officer, they raised objection under Section 18 of the Act and demanded compensation at the rate of Rs.500/- per sq. meter. The Special Land Acquisition Officer referred the dispute to the Reference Court for adjudication where it was registered as LAR Case No.121 of 2011 to 123 of 2011. The Reference Court by the impugned judgment and award has ordered the respondents herein to determine the value of the land at Rs.34.96/- per sq. meter, and accordingly, awarded additional compensation at the rate of Rs.28.96/-, in round figure Rs.29/-.

The claimants being not satisfied with the amount of additional compensation are before this Court with this appeal.

3. We have heard Mr. A.V. Prajapati, learned advocate for the appellants and Mr. Ajay Mehta, learned advocate for the respondents.

4. Mr. Prajapati, learned advocate for the claimants submitted that the Reference Court has fallen in error in relying upon Exhibit-28 award in respect of the same village as this award is based on earlier award of the same village, wherein, Section 4 Notification was of the year 1999. He, therefore, submitted that the Reference Court ought to have considered award in respect of adjoining villages to determine the market value of the acquired land. In support of his contention, he has relied upon the decision of this Court in the case of **State of Gujarat Through Special Land Acquisition Office & Another v. Amaji Mohanji Thakore, 2010 (3) GLH 447,** and the decision of the Supreme Court in the case of **General Manager Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and Another, (2008) 14 SCC 745,** and has urged that the appeals may be allowed and matter may be ramanded to the reference Court for fresh consideration.

5. Mr. Mehta, learned advocate for the respondent has supported the impugned judgment and award. He submitted that the reference Court has given cogent reasons for relying upon previous award in respect of the same village. He further submitted that the reference Court has, on the basis of the decision of the Supreme Court has properly calculated the compensation on the basis of previous award of the same village. In his submission the reasons assigned by the reference Court do not suffer from patent error or illegality warranting interference in this appeal. He, therefore, urges that the appeal which is preferred after delay of around 1216 days may be dismissed.

6. We have perused the impugned judgment and award of the reference Court and have given our thoughtful consideration to the rival submission.

7. The main thrust of the argument of Mr. Prajapati, learned advocate for the appellant is that the previous award (Exhibit-28) in the L.A.R. Case No.474 of 2011 to 480 of 2011 cannot be made basis for determining the compensation because in the said case the Section 4 Notification issued on 19.05.2006 whereas in the present case such Notification came to be issued on 14.11.2005. It is, therefore, the contention

of learned advocate for the appellant, the reference Court ought to have determined the market value of acquired land on the basis of the award in respect of the adjoining billing. We are unable to perused ourselves to accept the contention raised by the learned advocate for the appellant.

8. It is undisputed fact that in the present case, Section 4 Notification is issued on 19.05.2006 whereas in the earlier award (Exhibit-28) on which the reference Court has placed reliance the market value of the subject land was issued on 14.11.2005. It is the reference Court has given cogent reasons in paragraph No.20 of the impugned judgment and award for making Exhibit-26 award which is in respect of the same village for determining the market value. It further emerges from the reasons assigned by the reference Court, since, Section 4 Notification in Exhibit-28 was issued in the year 2006 i.e. prior to issue of Section 4 Notification. In the present case, which wherein it was issued in the year 2005, the reference Court has applied formula of reference time gap of six months to deduct 10% from the market value determined in Exhibit-28 award. We are of the considered view that when the previous award in respect of the same village is available and the time gap is not

huge, the submission of learned advocate for the appellant to determine the market value of the acquired land on the basis of the award in respect of adjoining village cannot be accepted. The impugned judgment and award of the reference Court is backed by cogent reasons and in our view it does not suffer from any illegality or irregularity warranting interference in this appeal.

9. For the foregoing reasons, the appeals fails and are hereby dismissed.

10. The parties are left to bear their own costs.

(S.R.BRAHMBHATT, J)

(A.G.URAIZEE, J)

Manoj