

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 1633 of 2017
With
R/FIRST APPEAL NO. 1634 of 2017
With
R/FIRST APPEAL NO. 1635 of 2017
With
R/FIRST APPEAL NO. 1636 of 2017
With
R/FIRST APPEAL NO. 1637 of 2017
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R/FIRST APPEAL NO. 1638 of 2017
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R/FIRST APPEAL NO. 1639 of 2017
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R/FIRST APPEAL NO. 1640 of 2017
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R/FIRST APPEAL NO. 1641 of 2017
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R/FIRST APPEAL NO. 1642 of 2017
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R/FIRST APPEAL NO. 1677 of 2017
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R/FIRST APPEAL NO. 1678 of 2017
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R/FIRST APPEAL NO. 1679 of 2017
With
R/FIRST APPEAL NO. 1680 of 2017
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1637 of 2017
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1638 of 2017
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1639 of 2017
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1642 of 2017
With
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In R/FIRST APPEAL NO. 1663 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1664 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1665 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1668 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1670 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1674 of 2017
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In R/FIRST APPEAL NO. 1677 of 2017
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CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1678 of 2017
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2017
In R/FIRST APPEAL NO. 1679 of 2017

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BHAVNAGAR DISTRICT PANCHAYAT

Versus

HEIRS OF DECEASED NATUBHA DIPUBHAI GOHIL & 2 other(s)

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Appearance:

MR HS MUNSHAW(495) for the Appellant(s) No. 1

RULE SERVED(64) for the Defendant(s) No. 1.1,1.2,1.3,1.4,1.5,1.6,1.7,2,3

MR BHARGAV PANDYA, AGP for the State in all appeals

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CORAM: **HONOURABLE MR.JUSTICE A.J. SHASTRI****Date : 28/02/2019****COMMON ORAL ORDER**

1. The present group of appeals are filed for the purpose of challenging the legality and validity of the impugned judgments and awards.

2. The case of the appellants in common is that feeling aggrieved and dissatisfied with the inadequate amount of compensation which has been awarded for the respective portion of lands which have been acquired, all the claimants have submitted their respective land reference cases against the opponent for seeking enhancement of compensation under section 18 of Land Acquisition Act, 1894. Since the land reference cases had arisen out of common award passed by the Land Acquisition Officer under section 11 of the Act dated 12.5.2011 in Compensation Case No.1 of 2006, all appears to have been dealt with in common.

3. The lands of the claimants were sought to be acquired for the purpose of construction of Senjadiya-Khakhariya Road at Village Senjadiya and Khakhariya. A notification under section 4 of the Act was published on 3.7.2008 in the Government Gazette followed by section 6 notification on 5.2.2009 and hearing of said land acquisition cases was held on 18.5.2010 in view of section 9 of the Act and consequently, the award came to be published on 12.5.2011. The description

in detail of the acquired land has already been given by the Land Acquisition Officer in the statement attached with the main award and there appears to be no dispute in respect of measurement and description of the acquired land. The compensation which has been claimed by way of these applications in land reference cases was Rs.300/- per sq.mtr.

4. The Reference Court after framing issues and after considering oral evidence has specifically found that to some extent, the award seems to be inadequate and for that purpose, the detailed reasons have been assigned and after proper application of mind, the Reference Court passed the following order:

"The present reference applications re hereby ordered to be partly allowed with proportionate cost and the claimants are entitled for the additional amount of compensation shown at the last column of the annexure attached herewith which is the part of this judgment.

It is hereby further ordered that the market value of the acquired lands is fixed at Rs.200/- per square meter for bagayat land and Rs.180/- per sq.mtrs. For jeerayat land for both villages Senjadiya and Khakhariya instead of market value fixed by the Ld. Land Acquisition Officer in L.A.Q.No.01/2006.

It is hereby further ordered that the claimants are also entitled, in addition to the market value of the land, too an amount calculated at the rate of 12% per annum on such market value for the period commencing on and from the date of the publication of the notification under section-4(1) of Land Acquisition Act, in respect of land acquired to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier in view of Section-23(1-A) of Land Acquisition Act, 1894.

It is hereby further ordered that the claimant are also entitled, in addition to the market value of the land, to a sum of 30% on such market value, in consideration of compulsory nature of the acquisition in view of Section-23(2) of Land Acquisition Act, 1894 along with aggregate interest.

It is hereby further ordered that the claimants are also entitled for the simple interest at the rate of 9% per annum for the first year from the date on which possession is taken of the land to the date of payment into Court on the additional amount of compensation and 15% per annum after expiry of such first year till payment is made on the additional amount of compensation in view of section-28 of Land Acquisition Act, 1894.

The present land references are hereby allowed to the aforesaid extent and there is no interference with the rest of the matter determined by the Ld. Land Acquisition Officer in his award made in L.A.Q.No.01/2006.

Annexure attached herewith this judgment shall be part of this judgment.”

It is this final order passed by the Reference Court which is made the subject matter of present set of appeals which have been taken up for hearing by the Court.

5. Learned advocate, Mr. Munshaw appearing for the appellants has submitted that there is a gross error committed by the learned Judge in passing the award and further, there reflects no documentary evidence to substantiate the claim, still, however, the order is passed. However, the learned advocate has submitted that in majority of cases, the award which has been enhanced is based upon the surrounding portion of land and there appears to be a clear analysis reflecting in the deposition led before the Court and has candidly submitted to dispose of the matters.

6. Having gone through the order passed by the Reference Court in detail, it prima facie appears that there is a strong application of mind on the issue in question. The order is well supported by cogent reasons and is based upon analysis of decision delivered by the Hon'ble Apex Court in several cases. Therefore, it appears that there seems to be no material irregularity of any nature nor any perversity which may allow

this Court to substitute the finding. It further appears that looking to the enhancement given by the Reference Court, the amount seems to be practically less than Rs.1.00 lakh in almost all these 25 appeals namely, First Appeal Nos.1637/2017, 1638/2017, 1639/2017, 1642/2017, 1643/2017, 1644/2017, 1645/2017, 1647/2017, 1648/2017, 1649/2017, 1650/2017, 1652/2017, 1653/2017, 1656/2017, 1660/2017, 1663/2017, 1664/2017, 1665/2017, 1668/2017, 1670/2017, 1674/2017, 1676/2017, 1677/2017, 1678/2017 and 1679/2017 and, as such, in view of the fact that there is no perversity in the order passed by the Reference Court nor any material irregularity, in addition to it, the smallness of amount has also desisted the Court from exercising appellate jurisdiction. Considering this set of circumstances, no interference deserves in the order which has been passed by the Court below. Accordingly, First Appeal Nos.1637/2017, 1638/2017, 1639/2017, 1642/2017, 1643/2017, 1644/2017, 1645/2017, 1647/2017, 1648/2017, 1649/2017, 1650/2017, 1652/2017, 1653/2017, 1656/2017, 1660/2017, 1663/2017, 1664/2017, 1665/2017, 1668/2017, 1670/2017, 1674/2017, 1676/2017, 1677/2017, 1678/2017 and 1679/2017 are disposed of by confirming the judgments and awards passed by the Reference Court and authorities as a consequence of it are directed to pay the amount as per the order which has been impugned within a period of eight weeks from today. Consequently, Civil Applications in those First Appeals also stand disposed of. There shall be no order as to costs.

7. As far as other appeals are concerned, they are adjourned to 19th March, 2019.

(A.J. SHASTRI, J)

RADHAKRISHNAN K.V.