

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

R/FIRST APPEAL NO. 2612 of 2016
With
R/FIRST APPEAL NO. 2613 of 2016
With
R/FIRST APPEAL NO. 2614 of 2016
With
R/CROSS OBJECTION NO. 394 of 2022
In
R/FIRST APPEAL NO. 2612 of 2016
With
R/CROSS OBJECTION NO. 392 of 2022
In
R/FIRST APPEAL NO. 2613 of 2016
With
R/CROSS OBJECTION NO. 393 of 2022
In
R/FIRST APPEAL NO. 2614 of 2016

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SPECIAL LAND ACQUISITION OFFICER (DY. COLLECTOR) & ANR.
Versus
PATEL GORDHANBHAI RAMABHAI

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Appearance:

MR ADITYASINH JADEJA, ASST GOVERNMENT PLEADER for the
Appellant(s) No. 1,2

MR MAHESH P PATEL(3381) for the Defendant(s) No. 1

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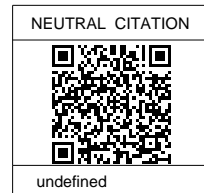
CORAM: HONOURABLE MR. JUSTICE BIREN VAISHNAV
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 18/06/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)

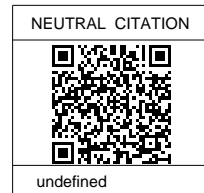
1. These appeals are filed by the State challenging the awards of the Land Acquisition Officers of the respective dates.



2. Essentially, the challenge is on the ground that the land reference court could not have relied on the interim report at Exs. 29/33/21 dated 09.03.2000 which awarded enhanced compensation at the rate of Rs.510/- per sq. mtr.

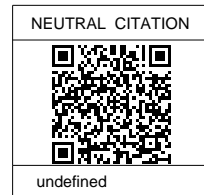
3. In light of the decision rendered by the co-ordinate bench of this Court in First Appeal No. 669 of 2019 of which paragraphs no. 14 and 15 are reproduced as under, the compensation awarded to the claimants has to be on the basis of the valuation report dated 20.05.2004.

“14. We have considered the ratio laid down and the principle enunciated in the aforesaid decisions. It is found out that the principles governing determination of market value of lands acquired are well- settled and at the time of determination of the compensation, the Hon’ble Supreme Court issued certain directions as regard the the methods of valuation to be considered i.e. (1) opinion of experts, (2) the prices paid within a reasonable time in bonafide transactions of purchase or sale of the lands acquired or of the lands adjacent to those acquired and possessing similar advantages and (3) a number of years' purchase of the actual or immediately prospective profits of the lands acquired. Therefore valuation made by the Valuation Committee can be a valid basis for the Reference Court in deciding



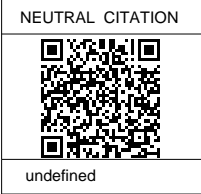
the valuation of the land for the purpose of awarding compensation, subject to any change in the nature of the land, character etc. If the impugned judgment and order of the Reference Court is examined in light of the aforesaid observations and discussions, it appears to us that there is no error committed by the Reference Court in relying upon the price fixed for allotment of the land for the public purpose of Spreading Canal of Sujalam Safalam, but the Reference Court has committed error in not considering the aspect that the valuation as was made of the land in question on 20.05.2004 and the said valuation is to be considered, keeping in view the principles, as observed herein above and the Reference Court has also totally lost sight of in not considering the deduction to be made in the nature of the land allotted for non-agricultural purpose and the acquisition of agricultural land in the present case.

15. From the facts of the case, as stated above, it is found out that it is the case of the original claimants that the Valuation Committee has fixed the valuation of the Government land on 20.05.2004, whereas the Notification under Section 4 of the Act was published on 30.06.2004 i.e. after the fixation of the valuation of the land by the Valuation Committee and, hence, they are entitled for additional compensation, for which, reliance is put upon the decision of this Court in case of Patel Haribhai Manilal (supra) as well as in case of Amaji Mohanji Thakore (supra) and though the aforesaid facts have been pointed out before the Reference Court, it has not been considered and 40% deduction was made instead of 20%, which the original claimants are entitled for. We have gone through the record and proceeding and found out that the Reference Court has considered the report dated 20.05.2004 of the Valuation Committee. It is found out that the Reference Court has correctly evaluated the the report of the Valuation Committee but at the time of considering the amount, 40% amount is



deducted from the said amount mentioned in the report solely on the count that in identical matter in case of Sardar Sarovar Narmada Nigam Ltd. delivered in First Appeal Nos.2832 to 2843 of 2006, the Division Bench of this Court has deducted 40% amount from the price fixed by the competent authority. It is found out from the record that in the said matter, the acquired land was situated in outskirts of the city area, whereas the present land, which is acquired by the acquiring body, is situated within the center of the city and as per the evidence led by the original claimants, surrounding and vicinity area of the acquired land is well developed area and in future, the Government need not have to spend any amount for the development of the said area, therefore, basic price value of the said land is on higher side, therefore, the deduction is required to be made 20% instead of 40%. We have gone through the record and proceedings and found out that the land, which was acquired by the acquiring body, is small plot and situated within the center of the city, therefore, we are of the opinion that the original claimants are entitled for 20% deduction instead of 40% deduction.”

4. Thereafter, the above decision was followed in a subsequent decision of this court in First Appeal No. 671 of 2019. In view of the above, the total compensation therefore in light of the aforesaid appeals, the orders of which are relied upon, has to be Rs.456/- per sq. mtrs for the respective acquired lands with all statutory benefits and interest after adjustment of the amounts already received by the claimants. Such statutory benefit



accrued shall be as per the rate prescribed under Section 28 of the Act. It is further directed that the enhanced compensation shall be deposited with the Nazir of concerned Court within period of eight weeks from the date of receipt of this order and on deposit of such amount, the same is directed to be disburse and paid to respective claimants on due verification of their identity by account payee cheque.

5. Accordingly, the appeals are allowed to the aforesaid extent. The cross objections are allowed to the aforesaid extent. The impugned award is modified accordingly. Civil application is accordingly allowed in terms of the valuation report dated 20.05.2004. The report which is part of earlier appeals is placed on record. Order accordingly.

(BIREN VAISHNAV, J)

(NISHA M. THAKORE, J)

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