



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 529 of 2009

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

Sd./-

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Approved for Reporting	Yes	No
		✓
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STATE OF GUJARAT & ORS.

Versus

SAGAR HARAJI NAJA SINCE DECD. THRO HEIRS & ANR.

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Appearance:

M KINJAL VYAS, GOVERNMENT PLEADER for the Appellant(s) No. 1,2,3
DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES
for the Defendant(s) No. 1

MR VAIBHAV A VYAS(2896) for the Defendant(s) No. 1.1

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CORAM: HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 12/08/2026

JUDGMENT

1. By the common judgment and award dated 28.03.2006, passed in Land Reference Case Nos. 67 to 96 of 1999 (Consolidated), the learned Principal Senior Civil Judge, Veraval ('Reference Court', in brief), partly allowed Land Reference Case Nos. 67, 79, 86, 89, 94, 95 and 96 of 1999 and granted additional amount of compensation of Rs.594/- per ares for irrigated land and Rs.733/- per ares for irrigated waste (Kharaba) land and Rs.485/- for baret type land and Rs.549/- for baret type waste land in favour of the land owners, as per Appendix-A and Appendix-B,



along with statutory benefits, in view of the findings recorded at Paragraph-13 of the impugned judgment and award.

1.1 Further, the learned Reference Court granted additional compensation for fruit bearing trees, which were standing on land bearing Survey Nos. 27/1, which was the subject-matter of Land Reference Case No. 86 of 1999 and granted compensation of Rs.2,02,800/-. In the same manner, the Reference Court granted additional compensation of Rs.6,22,050/- in respect of land bearing Survey No. 207/1, which was the subject-matter of LRC No. 94 of 1999 and the compensation of Rs.4,90,600/- in respect of the land bearing Survey No. 36/2 & 62/1, which were the subject-matter of LRC No. 96 of 1999.

1.2 The aforesaid compensation was additional compensation for fruit bearing trees, standing on the lands, which were acquired for the purpose of Vrujmi Reservoir Scheme. Section 4 notification was issued on 10.09.1981 and Section 6 notification was issued on 05.08.1982 and thereafter award was passed by the Special Land Acquisition Officer on 30.04.1983.

1.3 Since, the land owners were not satisfied with the compensation determined by the Special Land Acquisition Officer in respect of the lands, on which the fruit bearing



trees were standing, they filed aforesaid land reference cases, wherein, the learned Reference Court partly allowed the said cases, as noted herein above.

1.4 Being aggrieved and dissatisfied with the aforesaid order, the appellant-State approached this Court by way of First Appeal Nos. 523 to 529 of 2009 and the Division Bench of this Court disposed of the same vide common judgment and order dated 07.09.2011. While disposing of the said appeals, the Division Bench of this Court, at Paragraph-5 thereof, observed as under;

“(5) It appears from the judgment of the Reference Court that the Reference Court has relied upon the earlier decision (copy whereof was produced at Exh.129) for acquisition of the land and as per the said decision Rs.625/Are for the irrigated land and Rs.469/Are for the non-irrigated land was awarded as compensation. It has been further recorded by the Reference Court that the aforesaid decision was accepted by the State the Government. Apart from the above, Mr.Patel, during the course of hearing, has brought to our notice that there was acquisition of the land for the very project at Amrapur village vide notification under Section 4 of the Act dated 01.10.1981 and the Land Acquisition Officer had awarded compensation at Rs.6,500/Hectare for the non-irrigated land and Rs.14,000/Hectare for the irrigated land and Rs.100/Hectare for the waste land. Against which the

dispute was raised and was referred to the Reference Court being Land Reference Case No.20/85 and the Reference Court had awarded additional compensation at Rs.625/Are for the irrigated land and Rs.418.75/Are for the non-irrigated land. The matter was further carried before this Court in the proceedings of First Appeal Nos.720/99 to 725/99 and the learned Single Judge of this Court, vide decision dated 30.11.2006, has confirmed the said decision of the Reference Court and the appeals were dismissed.”

1.5 Further, in Paragraph-14 thereof, the Division Bench precisely observed that no compensation shall be available for any of the trees.

1.6 Being aggrieved with the order of the Division Bench, the original applicant in LRC No. 96 of 1999 and the opponent in First Appeal No. 529 of 2009, namely heirs of Sagar Harji Naja, preferred Special Leave Petition (C) No. 31233 of 2013 before the Hon'ble Apex Court, which came to be disposed of vide order dated 22.08.2014. The observations made by the Hon'ble Apex Court in Paragraphs- 5 to 9 of the aforesaid order reads thus;

“5. In Schedule “A” attached to the award, the Reference Court has at serial No.3 described the fruit bearing trees of the appellants, given their numbers, their annual production, their average production and total amount payable to the



appellants. Relevant portion of the said schedule reads thus:

No.	Land Reference Case and name of applicant	Survey No.	Fruit bearing trees	Nos.	Annual Production	Average production	Total amount payable
1	“	“	“	“	“	“	“
2	“	“	“	“	“	“	“
3	96/99 The heirs of deceased Sagar Harji Natha	36/2 62/1	Kalmi Amba, Nariyeli Saragva Ramfal Jamfal Gundo Limbudi	46 2 1 1 5 4 2	600 450 350 350 350 350 350	15 15 14 14 14 14 14	4,14,000/- 13,500/- 4,900/- 4,900/- 24,500/- 21,000/- 7,800 4,90,600

6. State of Gujarat carried first appeal to the High Court from the Reference Court's order. The High Court denied additional compensation to the appellants by observing that the Special Land Acquisition Officer has awarded additional compensation for trees by making valuation of trees, but if the said aspect is further considered with the evidence of witnesses, it is noticed that the evidence is not satisfactory to award additional compensation for trees. The High Court has not discussed which is that evidence, which it has found not sufficient to award additional compensation for trees. Reference Court followed a method and arrived at additional compensation. If the High Court was of the view that the



appellants are not entitled to additional compensation because of lack of evidence, it should have discussed this issue because a substantial amount of compensation was denied to the appellants.

7. The second grievance of the appellants is that no adequate compensation is awarded to the appellants as regards the existing construction. We find no substance in the contention of the appellants. It is, therefore, rejected.

8. Only so far as the question whether additional compensation needs to be awarded for the trees is concerned, we feel that the matter should be remanded to the High Court. Hence, we remand the matter to the High Court for proper consideration of the question whether additional compensation should be awarded to the appellants or not for fruit trees. We request the High Court to decide the issue expeditiously after hearing all concerned. Rest of the impugned order deserves no interference. Needless to say that we have not expressed any opinion on the appellants' claim and the matter may be considered independently and in accordance with law.

9. The appeal is disposed of in the afore stated terms."

1.7 In view of the above, this Court has heard learned AGP, Ms. Kinjal Vyas, for the appellant-State and learned



advocate, Mr. Smit Vaghela, for the land owners.

2. It is the submission of learned AGP, Ms. Vyas, that the land owner did not lead any evidence before the Reference Court to establish that fruit bearing trees were standing on the land bearing Survey Nos. 36/2 and 62/1. Therefore, she submitted that in absence of any evidence, which prove or establish that fruit bearing trees were standing on the aforesaid land, the learned Reference Court has wrongly assessed and has granted compensation for the fruit bearing trees. It was submitted that the Division Bench of this Court has, therefore, rightly held that no compensation should be awarded for fruit bearing trees.

3. *Per contra*, learned advocate, Mr. Vaghela, appearing with learned advocate, Mr. Vaibhav Vyas, for the land owners took this Court through the evidence of DW-2 - Prabhudas Jivraj, Exhibit-131, and submitted that the said witness examined by the appellant-State in his cross-examination admitted about fruit bearing trees standing on the aforesaid lands and in view of that, he submitted that the Reference Court rightly assessed and granted the amount of compensation towards fruit bearing trees. He, therefore, submitted that the order to that extent be modified.

4. I have heard the learned advocates for the parties and



also perused the material on record and considering the factual aspects as well as peculiar facts and circumstances of this case, what appears is that DW-1, namely Ramniklal Odhavji, examined by the appellant-State, Exhibit-83, admitted that there were three Gunda trees and three mango trees were standing on the land bearing Survey No. 62/1. However, the suggestions with regard to other fruit bearing trees standing on the land bearing Survey Nos. 36/2 and 62/1 were denied by this witness.

4.1 DW-2, namely Prabhudas Jivraj, Exhibit-131, who was serving as Assistant Engineer in Paragraph-4 of his cross-examination stated as under;

“4. I have seen the lands situated at village Amrapur and I am familiar with their type. If, the land situated at Amrapur is dug upto 01 meter, then, it is made of rocks and same is the case with the land situated at Junagadh and on account of that the expenses of digging up a well is more in this area. The wells situated on the lands in Amrapur were real and were filled with water and they were about 60 feet in depts and about 10 to 12 feet in width. However, neither did I measure the well nor did I made valuation of the same. The land has a bit of slope, but, it can be used for agricultural purposes. If, the land with a slope, but, not a waste land, is full of stones, then, no fruit or flower shall flourish thereon, otherwise, fruit bearing trees can flourish on it. Many of the



lands situated in Amrapur, which were acquired, had gardens with fruit bearing trees and most of those trees were of Kesar Mango. Desi mango trees were very less in numbers. If, a mango tree is 10 years or more old, then, it would yield 18 to 20 mun (i.e. 1 mun = 20 kilogram) mangoes and in the year 1981, the rate of mango was Rs.5/- to Rs.6/- per kilogram. A gunda tree would yield 10 to 12 mun gunda and there is no expenses to bear for maintaining that tree. I do not know, as to how much yield is obtained from Ravna tree and the rate of one kilogram of Ravna was Rs.10/- to Rs.12/- per kilogram in the year 1981. Some of the lands in Amrapur had coconut gardens and from one coconut tree around 200 to 225 coconuts can be received per year and not 250 to 300 and the rate of a coconut, in the year 1981, was Rs.1/- and not Rs.3/- to Rs.3.25/- and the farmers used to sold them in wholesale. About 12 to 15 mun of Chikoo yiled in a single year from a Chikoo tree and in the year 1981, the rate of one kilogram of Chikoo was Rs.4/- to Rs.5/- per kilogram. At present, the rate of one kilogram Chikoo is Rs.8/- to Rs.10/- per kilogram. I am not in a position to say, as to how much Jamfal would yield from a single tree in a year. But, in the year 1981, the rate of one kilogram Jamfal was Rs.3/- to Rs.4/-. About 8 to 10 mun of lemons yield from a single lemon tree in a year and in the year 1981, the rate of one kilogram lemon was Rs.3/- to Rs.4/-. A drumstick tree may yield about 800 to 1000 sticks per year and not 1200 to 1500 sticks and in the year 1981,



the rate of one kilogram of drumstick was Rs.7/- to Rs.8/-. About 5 to 7 mun tamarind can be received from a single tree in a year and in the year 1981, what was the rate of tamarind per kilogram, I am not aware. A papaya tree may yield about 6 to 7 mun papaya in a year and its per kilogram rate was Rs.3/- to Rs.4/-. The life-span of a papaya tree is about three to four years and it starts bearing fruits from the first year, itself. The life-span of banana is also about three years and it yields fruit for about two and a half year. A single banana tree may yield about 600 to 700 bananas and in the year 1981, the wholesale rate of banana was Rs.1/- for five bananas. Curry leaves are used in preparing snacks and cooking and its leaves earn money and a single tree can earn about Rs.10/- to Rs.15/- per day. I do not know, as to how much almond is obtained from a single tree in a year, but, in the year 1981, 3-4 almonds used to sold for Rs.1/-. One pomegranate tree may yield 5 to 6 mun and about four pieces of pomegranate would come in one kilogram. In the year 1981, the rate of one pomegranate fruit was Rs.1/- to Rs.1.50/-. The life-span of trees like mango, gunda, ravna, coconut, tamarind can be said to be about 60 years and not 75 years and if, all these are more than 10 years of age, then, they would yield fruits for about 30 to 40 years. The life-span of chikoo, jamfal, lemon, pomegranate, drumsticks, almond can be said to be 30 to 40 years and not 50 years. It is true that there is increase of about 10% to 15% in the rate of agricultural products and fruits. In the year 1981, the



rate of the irrigated land situated in Amrapur was Rs.10,000/- per bigha and the rate of non-irrigated land per bigha was Rs.7,000/-.”

4.2 The Hon’ble Apex Court, in its order passed in the SLP, which was filed by the heirs of Sagar Harji Naja for being denied additional compensation for fruit bearing trees, held that the Division Bench of this Court, in its order, has not discussed, as to which evidence were found insufficient to award additional compensation for fruit bearing trees.

4.3 This Court put a specific question to the learned AGP, as to which are the evidence, which are insufficient to grant additional compensation for fruit bearing trees and in response to that, learned AGP could not point out any evidence, which are insufficient to grant additional compensation for fruit bearing trees.

5. In the aforesaid circumstances, without further delving into the issue, this appeal is **dismissed**, while upholding the judgment and award, Dated: 28.03.2006, passed by the Reference Court in LRC No. 96 of 1999, granting additional compensation of Rs.4,90,600/- for fruit bearing trees, which were standing on the land bearing Survey Nos. 36/2 and 62/1.

5.1 At the time of disbursement, the Reference Court shall



verify the identity of the claimants and shall also examine their right to get compensation and then, if required, it may pass the order of disbursement.

5.2 It is clarified that the aforesaid order is passed in the peculiar facts and circumstances of this case and the same shall not be treated as a precedent. R&P, if any, be sent back to the concerned Court, forthwith.

UMESH/-

Sd./-
(J. C. DOSHI,J)