IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2172 of 2014
With
R/FIRST APPEAL NO. 2173 of 2014
With
R/FIRST APPEAL NO. 2174 of 2014
With
R/FIRST APPEAL NO. 2175 of 2014

==

THE GROUP GENERAL MANAGAR, ONGC
Versus
BHANUJI RUPAJI VAGHELA & ANR.

==

Appearance:
MR RITURAJ M MEENA(3224) for the Appellant
MR PINANK RAIYANI, for the original claimants

==

CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 24/08/2026

JUDGMENT

1. These First Appeals preferred by the appellant – Oil and Natural Gas Corporation Limited (ONGC) under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908, arise out of the common judgment and award dated 10.05.2013 passed by the learned Additional Senior Civil Judge, Kalol in Land Acquisition Reference Case Nos. 282/2012 to 287/2012 (originally LAR Nos. 2092 to 2097 of 2000).

2. By the impugned common judgment, the learned Reference Court partly allowed the references and awarded additional compensation at the rate of Rs. 330.80 ps. per square metre over and above the amount of Rs. 13/- per

square metre awarded by the Special Land Acquisition Officer (SPLAO), ONGC, Ahmedabad under the award dated 02.05.2000, together with 30% solatium under Section 23(2), additional amount under Section 23(1-A) at 12% per annum from the date of Section 4 notification till the date of the SPLAO award, and interest under Section 28 of the Act at the rate of 9% per annum for the first year from the date of taking temporary possession (27.02.1986) and thereafter at 15% per annum till realisation.

3. Brief facts of the case are as under:-

3.1 The lands situated at Village Pansar, Taluka Kalol, District Gandhinagar, bearing Survey/Block Nos. 1067, 1060, 1062, 1065, 1064 and 1061, belonging to the respective original claimants (now represented by their legal heirs), were acquired for the public purpose of "Sarkam No. K-439 (KLEH) Works" of ONGC. Notification under Section 4 of the Land Acquisition Act, 1894 was published on 12.06.1997 and declaration under Section 6 was published on 20.03.1998. The Special Land Acquisition Officer, after following the prescribed procedure, passed the award under Section 11 on 02.05.2000 determining compensation at the rate of Rs. 13/- per square metre.

3.2 Being dissatisfied, the claimants sought references under Section 18 of the Act. During the pendency of the references, the claimants enhanced their claim to Rs. 350/- per square metre. The learned Reference Court, after recording common evidence and hearing the parties, relied upon the judgment and award of the Reference Court in respect of lands of the adjoining village Dhamasana (Exh. 13-LAR No. 522/09, Section 4 notification dated 06.09.2000, wherein market value was determined at Rs. 264.60 per square metre). Applying 10% per annum appreciation for approximately three years, the learned Reference Court fixed the market value at Rs. 343.80 per square metre and awarded additional compensation of Rs. 330.80 per square metre, along with statutory benefits as noted above.

4. Heard learned advocates for the respective parties.

5. Learned counsel Mr. Rituraj Meena for the appellant - ONGC submitted that the learned Reference Court committed a serious error in placing reliance upon the award relating to Village Dhamasana instead of the sale instance of the same village Pansar produced at Exh. 22 (Sale Deed No. 683 dated 12.03.1997). It was contended that sale instances of the same village, if available, must be preferred over awards of adjoining villages. It was further submitted that Village Dhamasana is more developed as compared to Village Pansar and therefore the two are not comparable.

5.1 He would further submit that the principal challenge, however, was directed against the direction to pay interest under Section 28 of the Act from the date of temporary possession (27.02.1986). It was strongly urged that Section 28 contemplates interest from the date on which the Collector took possession of the land for permanent acquisition. Temporary acquisition under Chapter VI of the Act is distinct from permanent acquisition under Chapter III. The date of possession for the purpose of Section 28 must be construed as the date of the SPLAO award under Section 11 (02.05.2000) or the date of taking permanent possession under Section 16. Award of interest from the temporary possession date is contrary to the plain language of Section 28 and the scheme of the Act.

5.2 He would further submit that the award of solatium and other statutory benefits on the enhanced amount is excessive and that the Reference Court has proceeded on ipse dixit without sufficient documentary evidence of market value or agricultural yield.

5.3 Upon above submissions, he prays to allow the First Appeals.

6. *Per contra*, learned counsel Mr. Pinank Raiyani for the claimants supported the impugned judgment and award. It was submitted that the issue stands covered by the judgment and order of the Hon'ble Supreme Court dated 07.11.2017 passed in SLP (C) Nos. 8133-8136 of 2017 arising out of LAR Nos. 355 to 358 of 2012 concerning lands situated in the same village, namely, Pansar, acquired for ONGC. It is pointed out that, in the said batch of matters, the Hon’ble Supreme Court restored the additional compensation awarded by the Reference Court and thereby confirmed the market value of the acquired lands therein at the rate of Rs. 343.80 per square meter, holding that the reduction of the by the High Court was unsupported by the material on record and was,

therefore, unsustainable.

6.1 He would further submit that the sale deed at Exh. 22 had already been considered by the SPLAO while determining the original award and does not reflect the correct market value, carrying little evidentiary value against a recent judicial determination of market value of comparable land.

6.2 Upon above submissions, he prays to dismiss the First Appeals.

7. I have heard the learned counsel for the parties at length and carefully perused the impugned judgment and award, the evidence on record, and the decisions relied upon by both sides.

8. What is noticeable that the learned Reference Court has determined the market value by taking the award of the adjoining village Dhamasana (Exh. 13) as the base and applying 10% per annum appreciation for the intervening period of about three years. This method is well recognised and has received the imprimatur of the Hon'ble Supreme Court. In the absence of any cogent evidence demonstrating substantial difference in the quality, potentiality or location of the lands of Village Pansar vis-à-vis Village Dhamasana, the principle of parity applies. The sale instance of the same village relied upon by the appellant (Exh. 22) was already taken into consideration by the SPLAO. The Reference Court's approach cannot be said to be perverse or contrary to settled principles.

9. We also take note of the judgement and order of the Hon'ble Supreme Court dated 07.11.2017 in SLP (C) Nos. 8133–8136 of 2017 concerning LAR cases of the same Village Pansar, restoring Reference Court awards determining market value of the lands acquired therein at the rate of Rs. 343.80 (Rs. 13 + Rs. 330.80) per square meter. Hence, consistency and parity demand that the additional compensation of Rs. 330.80 per square meter awarded by the Reference Court in the present case be maintained.

10. This is the only substantial point that survives for consideration. Section 28 of the Land Acquisition Act, 1894 provides that if the sum which the Court awards as compensation is in excess of the sum awarded by the Collector, the Court may direct that the Collector shall pay interest on such excess at the rate of nine per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court. The expression "the date on which he took possession of the land" in the context of permanent acquisition under Part II / Chapter III of the Act refers to the date of taking possession for the purpose of permanent acquisition (ordinarily under Section 16) or, in the alternative, the date of the award under Section 11 when possession is deemed or has been taken. Temporary possession under the provisions relating to temporary occupation (Chapter VI) stands on a different footing.

11. In the present case, the Reference Court has awarded

interest from 27.02.1986 – the date of temporary possession. This, in our view, is not in consonance with the scheme of Section 28. The interest under Section 28 on the excess compensation determined by the Reference Court must run from the date of the SPLAO award (02.05.2000) or the actual date of taking permanent possession, whichever is earlier, at 9% for the first year and thereafter at 15% per annum till realisation. Any rent already paid by the acquiring body under the temporary acquisition arrangement shall continue to be adjustable against the amount payable, as already directed by the Reference Court.

12. The other challenges regarding solatium under Section 23(2) and the additional amount under Section 23(1-A) are without merit. Once the market value is correctly determined, these statutory benefits follow as a matter of course.

13. In view of the foregoing discussion, the first appeals are **PARTLY ALLOWED** in the following terms.

13.1 The additional compensation at the rate of Rs. 330.80 (Rupees Three Hundred Thirty and Paise Eighty only) per square meter over and above Rs. 13/- per square meter awarded by the Special Land Acquisition Officer, as determined by the learned Reference Court, is hereby confirmed.

13.2 The award of 30% solatium under Section 23(2) of the Act and the additional amount under Section 23(1-A) of the Act at 12% per annum from the date of publication of the notification under Section 4(1) of the Act till the date of the award of the Special Land Acquisition Officer are also confirmed.

13.3 The direction regarding interest under Section 28 of the Act is modified. The claimants shall be entitled to interest on the aggregate amount of compensation [including 30% solatium under Section 23(2) and 12% additional amount under Section 23(1-A) of the Act] at the rate of 9% per annum for the first year commencing from 02.05.2000 (the date of the SPLAO award) and thereafter at the rate of 15% per annum till the date of realisation / deposit of the excess amount in Court. The interest awarded by the Reference Court from 27.02.1986 stands set aside to that extent.

13.4 The direction that rent, if any, already paid by the acquiring body shall be appropriated / adjusted against the amount payable under the award, subject to the statutory ceiling, is maintained.

14. Connected, CA, if any, stands disposed of accordingly. The interim relief, if any, granted earlier shall stand vacated, subject to the appellant depositing the balance amount payable in terms of the present judgment, if not already deposited, within a period of eight weeks from today. In case the appellant has already deposited any amount before the learned Reference Court, the excess amount, if any, lying deposited after giving effect to the present judgment, shall be refunded to the appellant. The amount payable to the claimants in terms of the present judgment shall be disbursed

in their favour after due verification and in accordance with law.

15. Registry is directed to return back the R & P, if any, to the concerned Court forthwith.

16. Registry to maintain copy of this order in each matter.

(J. C. DOSHI,J)

SHEKHAR P. BARVE