IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 3816 of 2021
With
R/FIRST APPEAL NO. 3824 of 2021
With
R/FIRST APPEAL NO. 3825 of 2021
With
R/FIRST APPEAL NO. 3935 of 2021
With
R/FIRST APPEAL NO. 4014 of 2021
With
R/FIRST APPEAL NO. 4200 of 2021
With
R/CROSS OBJECTION NO. 284 of 2022
In
R/FIRST APPEAL NO. 3935 of 2021
With
R/CROSS OBJECTION NO. 297 of 2022
In
R/FIRST APPEAL NO. 4014 of 2021
With
R/CROSS OBJECTION NO. 298 of 2022
In
R/FIRST APPEAL NO. 4200 of 2021
With
R/CROSS OBJECTION NO. 299 of 2022
In
R/FIRST APPEAL NO. 3824 of 2021
With
R/CROSS OBJECTION NO. 164 of 2023
In
R/FIRST APPEAL NO. 3816 of 2021
With
R/CROSS OBJECTION NO. 165 of 2023
In
R/FIRST APPEAL NO. 3825 of 2021

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

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Approved for Reporting	Yes	No

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LAND ACQUISITION AND REHABILITATION OFFICER & ANR.
Versus
RAJPUT RAGHNATH KARMSHIBHAI

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Appearance:
MS KINJAL VYAS, AGP for the Appellant(s) No. 1,2
MR MAHESH P PATEL(3381) for the Defendant(s) No. 1
MR N P CHAUDHARY(3980) for the Defendant(s) No. 1

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

Date : 11/08/2026

JUDGMENT

1. With the consent of learned advocates for the parties, this group of matters are taken up for final hearing and decided by this common judgment.

2. First Appeal No.3816 of 2021 is treated as lead matter. By common judgment, dated 29.09.2017, learned Additional Senior Civil Judge, Deesa decided LAR Case No.59 of 2005 to LAR Case No.64 of 2005 treating LAR Case No.59 of 2005 as main matter. Common judgment dated 29.09.2017 has given rise to aforesaid group of appeals.

3. In the group of appeals, landlord have filed Cross Objection under Order XLI Rule 22 of the Code of Civil Procedure.

4. Factual background is that land of village – Ganta, Tal-Tharad, District Banaskanta were acquired for the public purpose of SIPU Yogana, Palanpur vide Notification under section 4 of the

Land Acquisition Act, 1894 (for short ‘the Act, 1894) and followed by Notification dated 03.11.2024 under section 6 of the Act, 1894. Special Land Acquisition Officer issued notice to all concerned and interested parties and decided LAR Case No.183 of 2004 under section 11 of the Act, 1894 by granting Rs.5.90 ps. per sq.mtr. as compensation to land owners. Following are the details of land acquired from different land owners of LARs.

Sr.No.	LAR No.	Block / Survey No.	Area (in Sq.mt.)
1	59 of 2005	54	13152
2	60 of 2005	54 paiki	2327
3	61 of 2005	56 paiki and 55 paiki	4047 + 2529
4	62 of 2005	56 paiki	7386
5	63 of 2005	55 paiki	5564
6	64 of 2005	55 paiki	4047

5. Aforesaid LAR Cases were registered under section 18 of the Act, 1894 as land owners were dissatisfied by compensation granted by Special Land Acquisition Officer.

6. Learned Reference Court after appreciating evidence on record was pleased to grant compensation of Rs.307.60 ps. Per sq. mtr. over and above compensation already awarded by Special Land Acquisition Officer with statutory benefits, however, instead of granting 15% interest being statutory, learned Reference Court granted 12% interest.

7. Being aggrieved by common judgment and award, State Government has preferred appeals.

8. On being served, land owners has also preferred Cross Objections.

9. Heard learned AGP Ms.Kinjal Vyas for the appellant – State Government and learned advocate Mr.Jignesh Kapadia for the land owners.

10. Judgment of Division Bench in First Appeal No.4879 of 2018 with Cross Objection No.322 of 2023 and allied matters, has been relied by learned AGP Ms.Vyas as well as learned advocate Mr.Kapadia.. They both submit that issue is squarely covered by judgment of Division Bench, and therefore, submitted to pass appropriate order.

11. Going by impugned judgment, it appears that learned Reference Court relied on Exh.31 and 32 - District Land Valuation Committee report which has fixed valuation of Government land of Village Lakhani at Rs.570/- per sq.mtr. This area of land was allotted to BSNL. Land acquired for village Gantha is within peripheral of 10 kms of village Lakhani. Learned Reference Court relied on judgment of this Court in the case of **Sardar Sarovar Narmada Nigam Ltd. v/s. Patel Haribhai Manilal [First Appeal No.2832 of 2006 and allied matters]** and deducted 40% of the amount from Rs.570/- and in addition thereto deducted 5% on the ground of distance between village – Gantha and village - Lakhani and believed that claimants are entitled for amount of compensation of Rs.307.60 ps. Learned Reference Court also recorded that there is meager difference of two to three months in issuance of notification under section 4 of the Act, 1894 and thereby granted compensation of Rs.307.60 ps. per sq.mtr.

12. State Government has challenged the common judgment on the ground that learned Reference Court erred to grant amount of compensation in absence of any evidence to establish market value of the acquired land. It is further contended that learned Reference Court who is expected to decide real market value of the acquired land, failed in its duty and thereby committed serious error.

13. Per contra, land owners raised objection on the ground that Division Bench of this Court in First Appeal No.4879 of 2018 and allied matters, instead of deducting 45% amount has deducted 20% of the valuation committee report and passed judgment. Secondly, grant of 12% interest is egregious error and section 28 of the Act, 1894 itself provides to grant 15% interest.

14. In this juxtaposition of rival claim, what is indisputable is passing of judgment of Division Bench in First Appeal No.4879 fo 2018 with Cross Objection No.322 of 2023 and allied matters, which conclude the issue. Division Bench in aforesaid First Appeal with Cross Objection, in para 6 to 11 held as under :-

> *"6. Pertinently, the land has been acquired for the public purpose of constructing Sujalam Sufalam Spreading Canal. Section 4 notification has been published on 30.06.2004 and Land Acquisition Officer has given its award under section 11 of the Act of 1894 on 29.04.2004 and the market value determined was at the rate of Rs.2.70/- per sq.mts. for irrigated land. Being aggrieved, the claimants have approached the Reference Court by filing Land Acquisition Reference Case under the provisions of section 18 of the Act of 1894 which, culminated into Land Acquisition Reference Case No. 23 of 2005 to Land Acquisition Reference Case No. 25 of 2005 and vide impugned judgment dated 22.09.2017 the additional compensation was determined at Rs.570/-. The learned Judge has allowed 40% deduction and the net market*

value determined was Rs.339.30/-. Direction has been given to extend the statutory benefits as per the provisions of the Act of 1894; however, there is direction of awarding 12% interest instead of 15% interest as per the provisions of section 28.

7. The captioned appeals and the cross objections are against the impugned judgment dated 22.09.2017. It is not in dispute and has been fairly accepted by the learned advocates appearing for the respective parties that the lands are acquired for the public purpose of constructing Sujalam Sufalam Spreading Canal of various villages including villages Lakhani and Ghela. It is also not in dispute that the distacnce between village Lakhani and village Ghela is approximately 2 kms. In the case of village Lakhani, the matter travelled upto this Court and the Division Bench, after considering the submissions made by the respective parties in Land Acquisition and Rehabilitation Officer vs. Kanbi Ravataji Lumbaji (supra) has determined the market value at Rs.456/- after allowing the necessary deduction. Paragraphs 14 to 18, read thus:

"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 outskirt 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.

16. We have considered the report of the District Valuation Committee, village : Lakhani dated 20.05.2004 produced on *record at Exhs.40 & 41 i.e. as well as the Map of village produced on record. It is found out from the aforesaid documents that the price of the land of land bearing Survey No.152 pk. has been evaluated and fixed at Rs.510/- per sq.mtr. And Sujalam Safalam Canal passes through land bearing Survey Nos.153 & 211 pk. and the said lands are situated adjacent to the land owned by the original claimants. It is also found out from the record that the lands owned by the original claimants are situated within well developed area, which would reduce the expenditure behind the development and, therefore after acquiring the said land, the Government need not have to spend money for its development. Thus considering the above facts of the case on hand, the original claimants are entitled for deduction of 20% instead of 40%, which has been done in the present case.*

17. At this stage, it is pertinent to note that we have also gone through the impugned judgment and award passed by the learned Reference Court including the finding given and conclusion arrived at by the learned Reference Court and found that except deduction of 40% instead of 20%, there is no error committed by the learned Reference Court, which would require interference from this Court. Hence, rest of the impugned judgment and award remain unaltered.

18. Therefore in view of the aforesaid observations made, First Appeals filed by the State of Gujarat are hereby dismissed. Whereas Cross Objections filed by the original claimants are allowed as prayed for. Therefore, the impugned judgment and award dated 22.09.2017 passed by the learned Additional Senior Civil Judge, Deesa in Land Acquisition Reference Nos.26 to 31 of 2005 is hereby modified to the extent that instead of compensation at Rs.333.50, which is already awarded by the Reference Court, the original claimants are entitled to get additional compensation at Rs.160/- per Sq.Mtr i.e. total compensation at Rs.493.50. Rest of the observation and direction would remain unaltered. Decree to be drawn accordingly. Record & Proceedings are sent back forthwith."

8. The above-referred judgment on facts and law, applies on all fours to the facts of the present case and hence, there is no reason available for this Court to deviate from the reasoning indicated in the above-referred judgment inasmuch as, it is not in dispute, and as stated hereinabove the acquisition is with respect to village Ghela which is village adjoining to village Lakhani and therefore, there is no reason available to this Court not to rely or refer to the judgment of the coordinate bench. Besides, nothing contrary has been *pointed out by the State dislodging the distance or potentiality of the land in question. The issue of deduction, is also discussed and considered in detail and therefore, allowing 40% deduction was not correct. So far as the appreciation is concerned, considering the difference of merely one month and eleven days between the date of report of the valuation committee, i.e. 20.05.2004 and section 4 notification, i.e. 30.06.2004, Mr. Jinesh Kapadia, learned Advocate has not pressed the claim of appreciation for the interregnum period. Yet in another decision, the co-ordinate bench in the case of Special Land Acquisition Officer vs. Patel Kanjibhai Ganeshbhai (supra) has in paragraphs 3 and 4 observed thus:*

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 outskirt 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."*

9. At this stage the judgment in the case of State of Gujarat through Special Land Acquisition Officer and Anr. vs. Amaji Mohanji Thakor(supra) would also be worth referring to wherein in paragraphs 27 and 28 it has been held and observed thus:

27.The Apex Court in the case of Lal Chand v. Union of India, reported in (2009) 15 SCC, 769 on the contrary at paragraph 44 has observed as under:-

"44. One of the recognised methods for determination of market value is with reference to the opinion of experts. The estimation of market value is with reference to the opinion of experts. The estimation of market value by such statutorily constituted Expert committee, as expert evidence can therefore form the basis for determining the market value in land acquisition cases, as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the presumption that may flow from such guideline market value. We, however, hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by the statutorily appointed Expert Committees, in accordance with the prescribed procedure."

28. In the present case, the valuation has been made by the Valuation Committee for giving opinion to the District Collector in exercise of the statutory power. The Valuation Committee is comprising of the expert body in the field of valuation, including the District Collector himself, T.P. Authority, etc. Therefore, there is no reason why the valuation made by the Valuation Committee of the Government for fixation of the price for allotment of the land at the very village by way of sale instance or price fixed by the Government for allotment of a land to an organization should not be taken into consideration."

Therefore, if there is evidence available in the form of report of the valuation committee, and in absence of any contrary evidence, it cannot be said that the learned Judge has committed error in relying upon the same.

10. Moreover, the evidence produced by the claimants were certificates issued by the Talati-cum-Mantri, so also, the judgments rendered in other land acquisition reference cases. In addition, Exh.36 – certified copy of valuation report dated 20.05.2004 of the District Valuation Committee was also placed on record. As against this, the evidence produced by the Land Acquisition Officer was merely the photocopy of the award, map of village Ghela and extract of 7/12 forms. The fact remains that the evidence produced by the claimants could not be dislodged.

11. In view of the above, this Court is of the considered opinion that the learned Judge has determined just and reasonable compensation relying upon the report of the District Valuation Committee dated 20.05.2004; however, so far as the deduction is concerned, it ought to have been 20% instead of 40% in view of the judgment in the case of Land Acquisition Rehabilitation Officer vs. Kanbi Ravtaji Lumbaji (supra). Therefore, the claimants would be entitled to claim compensation at Rs.456/- per sq. mts. (Rs.570 – Rs.114 (20% deduction)) together with all the statutory benefits and interest as per the provisions of section 28 of the Act of 1894. The differential amount shall be calculated and deposited within a period of ten weeks from the date of receipt of copy of this order. It is also directed that trial Court shall disburse the remaining amount after due and proper verification."

15. Adopting aforesaid reasons, which pari passu applies to the facts of the present case, land of village Gantha was acquired within one km of village Lakhani where lands were acquired for the same public purpose of constructing SIPU Yogana, even notification under section 4 of the Act, 1894 was issued on the same date and thus, finding of Division Bench in aforesaid First Appeal No.4879 of 2018 having binding precedent applies to the facts of the present case.

16. In view of above, the appeals filed by State Government deserve to be dismissed and accordingly, they are dismissed.

17. Cross Objections filed by the land owners are allowed in following terms :-

(i) 25% of amount shall be deducted from Rs.570/- per sq.mtr. determined by District Valuation Committee Report for village Gantha, the amount would come to Rs.427.50 ps. [(Rs.570 minus Rs.142.50 ps. (25% deduction)].

(ii) Out of aforesaid amount of Rs.427.50 ps. per sq.mtr., Rs.5.90 ps. granted by Special Land Acquisition Officer is to be deducted, the total amount of compensation would come to Rs.421.60 ps. to be paid to claimants. Difference of amount would be Rs.114/- and to that extent amount of additional compensation is enhanced.

(iii) The original claimants are entitled to additional compensation of Rs.114/- per sq.mtr. and interest for first year shall be 9% and for subsequent years, interest would 15% .

(iv) Impugned judgment and award is modified in aforesaid terms.

(v) State Government shall deposit differential amount of Rs.114/- per sq.mtr. within period of 16 weeks from the date of receipt of copy of this order.

(vi) If any Court fees is required to be paid, it shall be paid by the original claimants.

(vii) Upon deposit of the additional amount compensation, learned Reference Court shall disburse the entire amount of additional compensation to the claimants after due and proper verification.

18. Record and proceedings, if any, be send back to learned Trial Court concerned. Registry to maintain copy of this order in each matter.

(J. C. DOSHI,J)

SATISH