IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2637 of 2016

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK

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Approved for Reporting	Yes	No

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THAKOR SATAJI KALAJI SINCE DECD. THROUGH HEIRS & ORS.
Versus
SPECIAL LAND ACQUISITION OFFICER & ANR.

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Appearance:
MR AV PRAJAPATI(672) for the Appellant(s) No. 1,1.1,1.2,1.3,1.4,1.5,1.6,1.7
MS ROSHNI PATEL, AGP for the Defendant(s) No. 2
RULE UNSERVED for the Defendant(s) No. 1

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CORAM:**HONOURABLE MR. JUSTICE HEMANT M. PRACHCHHAK**

Date : 13/10/2025
ORAL JUDGMENT

Ms. Roshni Patel, learned Assistant Government Pleader, waives service of notice of Rule for and on behalf of the respondent No.1.

1. Present appeal is filed against the common judgment and award dated 29.5.2010 passed by learned Principal Senior Civil Judge, Mehsana (hereinafter be referred to as the "Reference Court") in Land Acquisition Reference Case No. 958 of 2003 to 973 of 2003, whereby the Reference Court has partly allowed the said Reference Cases and awarded additional amount of compensation of Rs.34.85 ps. per square meter over and above the compensation awarded by Special Land Acquisition Officer along with other statutory benefits in favour of the appellants.

2. The facts giving rise to present appeal are that the competent authority under the Land Acquisition Act had acquired lands of the claimants for public purpose to make Canal situated at Village Kamana, Taluka Visnagar, District Mehsana. For that the notification under Section 4 of the Act had been published in 2 daily newspaper on 17.07.2002 and even in village Kamana on 19.7.2002 and the notification under Section 6 of the Act was published in newspaper on 18.11.2002 and in village Kamana on 01.12.2002. After following due procedure and after hearing the concerned parties, the Special Land Acquisition Officer has passed an award dated 13.1.2003 under Section 11(1) of the Act and the possession of the land was taken on 8.8.2001 by consent of the claimants and the Special Land Acquisition Officer has fixed the market value of the lands at Rs.8.10 N.P. per square meter.

2.1 Being aggrieved and dissatisfied with the said award the claimants filed Land Acquisition Reference Case No. 958 of 2003 to 973 of 2003 before the Reference Court.

2.2 The Reference Court after hearing both the parties and after evaluating the evidence placed on record has framed the issues at Exh.9 referred in paragraph No.5 of the judgment and award, which reads as under:-

> 1. Whether the applicants/claimants proves that compensation awarded is inadequate?
> 2.If ayes, what additional compensation the applicants/claimants are entitled to?
> 3. Whether reference cases filed within limitation provisions under Section 18 of the Act?

2.3 The Reference Court answered the said issues in paragraph No.6.

Thereafter, Reference Court considered oral as well as documentary evidence of both the sides which read as under:-

> "ORAL EVIDENCE:
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> **(a) Applicants witness No.1-** Babuji Ravaji Thakor applicant of L.A.R.No.958/03 has been examined on oath at Exh.55, on behalf of the applicants and the applicant's side has submitted closing pursis at Exh. 74. The same witness had been examined earlier at Exh.36.
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> **(b) Opponent's witness:-** The opponents side has not repeated the witness instead, the opponent side has examined fresh witness namely Shri Sagardan Abheysinh Zibha, Deputy Collector, CIPU Project, Palanpur at Exh.73. Earlier Government had examined Shri Rameshchandra Amarsinhbhai Thakkar, Deputy Mamlatdar, Office of CIPU Project, LAQ Officer for CIPU Project at Exh.38.
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> (**A) Documents produced by the applicants**:-
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> Again, applicants have produced following documents:-
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> (1) A letter written by office of Town Planning office under the information asked by H.P.Patel dated 01.01.2010 at Exh.49
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> (2) Valuation Report prepared by Town Planning Office, Mehsana dated 26.11.1998 for the land survey No. 1252 paiki 505.85 sq.mtr of village Kamana produced at Exh.50.
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> (3) Valuation Report prepared by Town Planning Office, Mehsana dated 26.11.1998 at Exh.51.
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> (4) Report of District Valuation Committee dated 26.11.1998 at Exh.52.
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> (5) Copy of Valuation Report prepared by Town Planning Office of Survey No. 1252 paiki of village: Kamana 14.07.2000 at Exh.53.
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> (6) Valuation Report prepared by Town Planning Office on 14.07.2000 at Exh.54
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> (7) A note of meeting chaired by the Collector as a Chairman of District Valuation Committee, Mehsana dated 14.07.2000 produced at Exh.55.
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> (8) Valuation Report prepared by Town Planning Office, Mehsana

regarding Survey No.1252 paiki of village Kamana dated 11.01.2000 produced at Exh.56.

(9) Valuation Report prepared by Town Planning Office, Mehsana regarding land dated 11.01.2001 produced at Exh.57.

(10) Copy of proceeding of meeting held by District Valuation Committee on 11.01.2001 produced at Exh.58

The documents produced by the applicants such as village Form 7 and 12 of the land covered in Award No.15/02 produced at Exh.14 to 34 and one judgment of group matter of L.A.R.No.809 to 813 of 1987 bearing Main L.A.R.No.813/1987 is produced at Exh.35, at earlier.

(B) Documents produced by opponents:-
(1) to (5):- Abstract of Registrar of Registration Documents for the year 2004-2007 and 2009 of village Kamana at Exh.66 to Exh.70.

(6) Copy of the Award No.15/02 declared by Sp. Land Acquisition Officer which gives cause to these Land Reference Cases, is produced at Exh.77.

(7) Statement "G" annexed with L.A.Q Award No.15/02 produced at Exh.78.

(8) Map of village Kamana with its surrounding outskirts produced at Exh.79.

(9) One judgment of L.A.R.No.580/96 to 584/96 of village Ravlapura located adjoining to village Kamana, is produced at Exh.80 (earlier it exhibited as 48 but there was error, therefore, re-numbed as Exh.80.

(10) Opponent has produced one more map of village Kamana at Exh.81."

2.4 The Reference Court has placed reliance upon the judgment pertaining to Village Ravalpura, passed in Reference Case Nos. 580 to 584 of 1996, wherein the notification under Section 4 of the Act was published on 28.02.1991, and the Reference Court had awarded compensation at the rate of Rs. 42.90 per square meter. In the present case, however, the notification under Section 4 was issued and published in the newspaper almost 11 years later, i.e., on

19.07.2002, and the Reference Court awarded compensation at the rate of Rs. 34.85 per square meter along with other statutory benefits, vide judgment and award dated 29.05.2010.

2.5 Being agreed and dissatisfied with the impugned judgment and award passed by the Reference Court, the present Group of Appeals have filed by the Appellants under Section 54 of the Land Acquisition Act.

3. Heard Mr. A.V. Prajapati, learned counsel for the appellant and Ms. Roshni Patel, learned AGP for the respondents.

4. Mr. A. V. Prajapati, learned counsel for the appellants, has submitted that the Reference Court, without properly appreciating the facts and the documentary evidence produced by the appellant, has completely ignored and overlooked the Valuation Committee Report submitted before the Court in respect of the very same Village Kamana.

4.1 Mr. A. V. Prajapati, learned counsel for the appellants, has submitted that five valuation reports were produced before the concerned Reference Court, particularly the copy of the valuation report prepared by the Town Planning Officer for Survey No. 1252 paiki of Village Kamana, dated 14.07.2000, at Exhibit 53. However, the said evidence was brushed aside by the Reference Court while determining the value of the land in question. He further submitted that in paragraphs 16, 17, and 19 of the judgment, the Court has given very flimsy reasons and has mainly referred to and relied upon the award passed in the case of Village Ravalpura. He has also

submitted that the distance between Village Ravalpura and Village Kamana is more than 10 kilometers, and the date of the notification in that case was almost 11 years prior to the date of acquisition in the present case.

4.2 Mr. A. V. Prajapati, learned counsel for the appellants, has submitted that the Reference Court has mainly negatived the contentions raised by the learned counsel appearing for the original claimants on the ground that the land in question was allotted to B.S.N.L. for the purpose of constructing a building in memory of Dr. Babasaheb Bhimrao Ambedkar, which was situated near the village site, whereas the lands acquired in the present group of reference cases are agricultural lands located in the interior area and were acquired for the purpose of constructing a canal. Since the purpose of both acquisitions is entirely different, the claim of the present appellant–original claimant could not be accepted or considered by the Reference Court.

4.3 Learned counsel for the appellant has further submitted that the findings recorded by the Reference Court in paragraphs 16 and 19 of the impugned judgment and award show that the Reference Court has completely overlooked the settled legal principles enunciated by this Court. He has submitted that under such circumstances, the present appeals deserve to be allowed, and the impugned judgment and award passed by the Reference Court deserve to be modified.

4.4 Mr. A. V. Prajapati, learned counsel for the appellants, has further contended that it is now well settled that, in the absence of any other cogent or material evidence, the valuation report prepared by the

Valuation Committee serves as the primary basis for determining the value of the land in question, and reliance must be placed on the same. He has submitted that recent sale instances referred to by the Market Committee, near the date of the notification issued under Section 4, should also be taken into consideration, in view of the recent decision of the Hon'ble Apex Court in the case of ***State of Gujarat vs. Amaji Mohanji Thakor reported in 2010 GLH 3 447***. He has submitted that in the present case, the learned Reference Court has completely ignored this fact while discarding the evidence at Exhibits 53 and 55. In view of the fact that since the Market Committee relied on the last sale instance of 2000, whereas in the present case the notification was issued in 2002, Mr. A. V. Prajapati, learned counsel, urges before the Court that the present appeal deserves to be allowed, and the impugned judgment and award passed by the Reference Court deserve to be modified.

5. As against that, Ms. Roshini Patel, learned AGP for the respondents, contended that the observations made by the learned Reference Court, more particularly in paragraph 15, are just and proper. She submitted that the Reference Court has rightly observed that the subject parcel of land involved in the present group of acquisitions is internal agricultural land, whereas the instance relied upon pertains to land situated adjacent to the main road and acquired for the purpose of constructing a building in memory of Dr. Babasaheb Bhimrao Ambedkar for BSNL. Since the said land was non-agricultural in nature, the Reference Court rightly distinguished the same and rejected the claim of the present appellants. Therefore, there is no merit in the present appeals, and the same deserve to be dismissed.

5.1 Ms. Patel, learned AGP for the respondents, has further contended that even if it is considered that there is a gap of 11 years between the earlier group of matters decided by the Reference Court in respect of village Ravalpura, the appropriate cumulative increase would be Rs. 8.00 per square meter, and not any higher amount and therefore, in such circumstances, an appropriate order may be passed.

6. I have gone through the relevant material and documents produced on record. I have also perused the record and proceedings as well as impugned judgment and order passed by the Reference Court.

7. In my considered opinion, the market value determined by the Reference Court is neither just nor proper. While awarding the amount of compensation, the Reference Court has completely ignored the settled principles laid down by this Court as well as by the Hon'ble Apex Court regarding the determination of market value. The Court ought to have appreciated the comparable sale instances and the potentiality of the acquired land in a fair and judicious manner. The failure to do so has resulted in an erroneous and inadequate assessment of compensation, which calls for appropriate interference by this Court.

8. In reference to the judgment cited by the learned advocate, it is evident that the Reference Court has completely overlooked and failed to apply the ratio laid down by this Court. Such an omission has led to an improper assessment of the market value and compensation. Therefore, in my considered view, the impugned

judgment and award cannot be sustained in its present form and deserve to be suitably modified. Even in the recent judgment of the Hon'ble Apex Court in the case of ***General Manager Oil and Natural Gas Corporation Ltd. vs Rameshbhai Jivanbhai Patel, reported in (2008) 14 SCC 745*** the Honble apex Court has observed in paragraph No.12 as under:-

> "*12. Normally, recourse is taken to the mode of determining the market value by providing appropriate escalation over the proved market value of nearby lands in previous years (as evidenced by sale transactions or acquisition), where there is no evidence of any contemporaneous sale transactions or acquisitions of comparable lands in the neighbourhood. The said method is reasonably safe where the relied-on-sale transactions/acquisitions precedes the subject acquisition by only a few years, that is upto four to five years. Beyond that it may be unsafe, even if it relates to a neighbouring land. What may be a reliable standard if the gap is only a few years, may become unsafe and unreliable standard where the gap is largrer. For example, for determining the market value of a land acquired in 1992, adopting the annual increase method with reference to a sale or acquisition in 1970 or 1980 may have many pitfalls. This is because, over the course of years, the rate of annual increase may itself undergo drastic change apart from the likelihood of occurrence of varying periods of stagnation in prices or sudden spurts in prices affecting the very standard of increase.*"

9. From the above observations, it is evident that ordinarily, when there is no evidence of contemporaneous sale transactions or acquisitions of comparable lands in the vicinity, the market value is determined by adopting the method of providing a reasonable escalation over the established market value of nearby lands acquired or sold in the preceding years. This method offers a fair and dependable basis for valuation, provided that the earlier transactions or acquisitions precede the subject acquisition by a limited period, generally not exceeding four to five years. However, when the gap extends beyond that period, reliance on such past transactions

becomes unsafe and unreliable, even if the land is situated in the same or adjoining locality, as market conditions and potentiality may undergo significant change over time.

10. In the present case, the Reference Court has referred to and relied upon the award passed in respect of village Ravalpura and/or on certain instances, while overlooking the price and recent transactions considered by the Valuation Committee. The report of the Valuation Committee, which carried significant evidentiary value, has been completely ignored and brushed aside by the Reference Court without assigning any cogent reasons.

11. In view of the aforesaid observations, and having regard to the judgment rendered in ***Amaji Mohanji (supra),*** if 40% is deducted from the market value determined by the District Valuation Committee as produced at Exhibit 55, the resultant market value of the land would be as under:-

Rs.600.00	Market Value determined by District Valuation Committee on 14.07.2000
Rs.240.00	Less: 40% Deduction (for non-agriculture land plus smallness of plots)

Rs. 360.00	Net amount
Rs. 28.80	8% increase for the first year

Rs.388.80	Net amount
Rs. 31.10	8% increase for the second year

Rs.419.90	Total
Rs. 8.10	Less:Awarded by the Special Land Acquisition Officer
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Rs.411.80	Total

Rs. 34.85	Less: Amount awarded by Reference Court

Rs.376.95	Entitled for additional compensation instead of Rs.34.85.

12. In view of the foregoing, the claimants are entitled to additional compensation at the rate of Rs. 376.95 per square meter, along with all other statutory benefits.

13. For the reasons stated above, the present appeal is hereby partly allowed. The impugned common judgment and award dated 29.5.2010, passed by the learned Principal Senior Civil Judge, Mehsana, in Land Acquisition Reference Cases No. 958 of 2003 to 973 of 2003, is hereby modified to the extent that the claimants are entitled to an additional amount of compensation at Rs. 376.95 per square meter.

14. The respondents are directed to deposit the additional amount awarded by this Court i.e. Rs.376.95 per square meter before the concerned Reference Court within period of eight weeks from the date of receipt of a copy of this order. Upon deposit, the amount shall be disbursed in favour of the each of the appellants—original claimants, after following due procedure and after verifying their bank details through RTGS/NEFT. The record and proceedings, if received, shall be transmitted to the concerned Reference Court forthwith.

(HEMANT M. PRACHCHHAK,J)

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: DOLLYBEN CHETANBHAI VADUKAR(HC01392), PRIVATE SECRETARY, at High Court of Gujarat on 13/10/2025 16:23:34