



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NOS. 7791-7796 OF 2013**

KALUBHAI KHATUBHAI ETC. ETC. ...APPELLANTS

Versus

STATE OF GUJARAT & ORS. ...RESPONDENTS

J U D G M E N T

DIPANKAR DATTA, J.

1. These appeals, by special leave, are at the instance of affected landowners. Their lands were acquired for the Vadodara Branch Canal of Narmada Project (hereafter “the project”, for short). Exception is taken by the appellants to the common judgment and order dated 28th March, 2012 passed by a learned Judge of the Gujarat High Court whereby six appeals (First Appeal Nos.4383 to 4388 of 2008) carried by the State of Gujarat and two of its officers under section 54 of the Land Acquisition Act, 1894 (hereafter “the Act”, for short) from a judgment and award dated 10th May, 2007 of the Reference Court were allowed. As a consequence, the award under section 11 of the Act

stood restored and compensation for the acquired lands as awarded by the Reference Court to the appellants stood reduced by exactly half.

2. It is not in dispute that lands comprised, *inter alia*, in villages Morlipura, Kumetha and Nimeta of Waghodia taluka, district Vadodara were acquired for the project commencing with notifications issued under section 4 of the Act on diverse dates. The hiatus between issuance of the section 4 notifications for villages Morlipura and Kumetha was not too substantial. Whereas the lands of the appellants situated in village Morlipura were acquired pursuant to section 4 notification dated 26th June, 1986 giving rise to L.A.Q. Case No. 86 of 1985, the process for acquisition of lands in village Kumetha was triggered by a notification dated 16th January, 1986 which, in turn, gave rise to L.A.Q. Case No. 85 of 1985. However, the date of the section 4 notification for acquisition lands in village Nimeta happens to be 18th June, 1981, which led to L.A.Q. Case No. Nimeta/81 being registered.

3. Insofar as the lands of the appellants are concerned, award dated 26th November, 1987 was made by the Land Acquisition Officer (hereafter "LAO", for short). In awarding compensation payable to the appellants, the LAO calculated the market value of their lands @ Rs.19,000/-

per hectare (i.e., Rs.1.90 per square meter). Reference having been sought by the appellants under section 18 of the Act, Land Reference Case Nos. 120 to 122 and 125 to 127 of 1991 were registered. The Reference Court by its judgment and award dated 10th May, 2007 enhanced the amount of compensation by returning a finding that market value of the land should have been reckoned as Rs.4,00,000/- per hectare (i.e., Rs.40/- per square meter). In so determining, the Reference Court relied on the award of the Reference Court dated 18th August, 2004 in Reference Case Nos. 499 to 550 of 1990 (Ext.29). Incidentally, there the section 4 notification was issued on 20th August, 1986 and the lands sought to be acquired were comprised in village Dumad. Also, the purpose of acquisition was different, viz. for construction of highway and not for the project. Aggrieved by the determination made by the Reference Court, the State carried the same in appeals before the High Court which succeeded as noted above.

4. While reducing compensation payable to the appellants, the learned Judge of the High Court observed that the Reference Court was not justified in placing reliance on Ext. 29. Also, His Lordship had taken note of a Bench decision dated 4th August, 2005 of the same High Court in

First Appeal Nos. 2151 to 2168 of 2005 (arising out of Reference Case Nos. 165 to 182 of 1983) where, while considering compensation to be paid to the affected owners of lands comprised in village Nimeta, the Bench had substituted determination of market value of the acquired lands @ Rs.10/- per square meter by Rs.7/- per square meter.

- 5.** The High Court was right in its interference with the order of the Reference Court while holding that acquisition of lands in village Dumad (which were not acquired for the project) could not be a guiding factor for determining compensation. However, at the same time, the learned Judge of the High Court fell in error in reducing the compensation payable to the appellants based on compensation awarded in respect of lands comprised in village Nimeta. In our considered view, the lands comprised in village Nimeta having been acquired in pursuance of a section 4 notification dated 18th June, 1981, which was at least 5 years prior to the acquisition by notification dated 26th June, 1986, such prior acquisition and compensation paid to the landowners affected by the same acquisition could not have served as a guiding factor for the High Court to determine compensation payable to the appellants.

6. We, thus, hold that both the Reference Court as well as the Appellate Court committed errors in determining fair and just compensation payable to the appellants. We would have embarked on our task of such determination based on the materials on record, instead of ordering a remand having regard to the lapse of time since acquisition was made; however, such task is cut short because of a development, which has its own significance, post grant of leave to appeal by this Court on 2nd September, 2013. It has been brought to our notice that other affected landowners of village Morlipura had sought for reference under section 18 of the Act after their lands were acquired for the project giving rise to Reference Case Nos.123-124 of 1991 (renumbered as Reference Case Nos.61-62 of 2017). Their lands were also covered by L.A.Q. Case No. 86 of 1985. The Reference Court allowed the reference by its judgment and award dated 21st March, 2018 and determined market value of the acquired lands @ Rs,4,00,000/- per hectare, being the identical determination made by the Reference Court *vide* judgment and award dated 10th May, 2007 in case of the appellants, since reduced by the High Court by the impugned judgment and order dated 28th March, 2012. What appeared to us to be significant was the submission

of learned counsel for the appellants that the State of Gujarat had accepted the judgment and award dated 21st March, 2018 without carrying the same in appeal and that it also disbursed the amount of compensation payable to the affected landowner (claimants before the Reference Court) in terms thereof.

7. For the purpose of confirmation of the aforesaid submission, we had requested learned counsel for the respondents to verify and report. She has placed on record a communication dated 10th August, 2023 received by her from the Special Land Acquisition Officer (Narmada Project), Vadodara. A perusal thereof reveals that the judgment and award dated 21st March, 2018 of the Reference Court has, in fact, been accepted and the additional amount which was awarded has been deposited in court on 28th January, 2019.

8. In the light of such confirmation, we are of the view that the appellants cannot be worse off than the other affected landowners of the same village, i.e., Morlipura, who have been paid more compensation. In a welfare state like ours where we have promised all the citizens social and economic justice, it would be fair and just if the appellants are meted equal treatment as the other affected

landowners (claimants in Reference Case Nos.61-62 of 2017).

- 9.** For the reason aforesaid, we set aside the impugned judgment and order dated 28th March, 2012 of the High Court and restore the judgment and award of the Reference Court dated 10th May, 2007. Whatever amounts the appellants are entitled to in terms of the Reference Court's judgment and award, minus the amounts so far received, shall be released with simple interest @ 5% per annum from 10th May, 2007, as early as possible but positively within ninety days of receipt of an authenticated copy of this judgment and order.
- 10.** The appeals are accordingly allowed, without any order for costs.

.....J.
[BELA M. TRIVEDI]

.....J.
[DIPANKAR DATTA]

**NEW DELHI;
16TH AUGUST, 2023.**