

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5269 OF 2008
(Arising out of SLP [C] No.6169 of 2006)

Jivanbhai Ambalal & Ors.

... Appellants

Vs.

Special L.A.Q. Officer & Ors.

... Respondents

WITH

CA No. 5270 of 2008 (arising out of SLP (C) No.7293/2006)

CA No. 5271 of 2008 (arising out of SLP (C) No.7863/2006)

ORDER

CA No. 5269 of 2008 (arising out of SLP (C) No.6169/2006)

Leave granted. Heard learned counsel for the parties.

2. The matter relates to determination of compensation for acquisition of land at Dantali Village near Gandhinagar in Gujarat under preliminary notification dated 22.6.1989 for construction of Narmada Canal. The Special LAO awarded Rs.4.50 per sq.m. The Reference Court awarded Rs.62.50 per sq.m by judgment and award dated 14.3.2002. The appeal by

the appellants claiming enhancement of compensation to Rs.71/- per sq.m was dismissed by the High Court by judgment dated 21.9.2005. Feeling aggrieved, the land-owners are in appeal.

3. For determining the market value, the Reference Court relied on its own judgment and award dated 3.12.1999 in regard to acquisition of similar lands for the same purpose in the same village under previous Notification dated 2.1.1986, which had attained finality. In that case, the collector had awarded Rs.2.50 per sq.m and the Reference Court increased it by Rs.52 per sq.m thus awarding Rs.54.50 per sq.m. In this case, the Reference Court held that the market value for the land acquired in 1989, should be determined with reference to the market value determined with reference to the acquisition of 2.1.1986, by increasing the value by 10% per year. However, the Reference Court made a mistake in assuming that the amount awarded in respect of the acquisition in 1986 was Rs.52/- per sq.m instead of Rs.54.50 per sq.m. It also wrongly calculated the increase for only two years, though the gap was more than three years. The reference court thus calculated the market value as Rs.62.50 per sq.m by taking the base rate as Rs.52 and adding Rs.10.50 towards 20% escalation. The High Court held that as there was no evidence to show that there was an annual increase in

market value by 10%, there was no need to interfere with the determination of market value. It however modified the award of the reference court, in regard to interest.

4. This Court, in *General Manager, ONGC vs. Rameshbhai Jivanbhai Patel* (Civil Appeal No.5192 of 2002 decided on 31.7.2008) has accepted that generally there is an annual increase of 10% to 15% in the market value of lands in urban and semi-urban areas and 5% to 7.5% in the market value of lands in rural areas. In this case, as the acquired land as per evidence was hardly at a distance of 7 km from Karol, and 8 km from Gandhinagar and about 1 km from a residential township, it has to be treated as semi-urban area. If the market value is to be calculated in accordance with principles in *Rameshbhai Jivanbhai Patel* (Supra) by applying a cumulative rate of 10% per annum for three years over the market value of Rs.54.50 in 1986, the market value will be Rs.72.60 per sq.m. However, as the appellants have restricted their claim to Rs.71/- per sq.m before the High Court, we increase the compensation from Rs.62.50 per sq.m to Rs.71 per sq.m.

5. The appeal is thus partly allowed and the compensation is increased from Rs.62.50 to Rs.71 per sq.m. The award of the Reference Court as

modified by the High Court in regard to solatium, additional amount, interest etc., will apply. Parties to bear respective costs.

CA No. 5270 of 2008 (arising out of SLP (C) No.7293/2006)

Leave granted. Heard learned counsel for the parties.

2. In this appeal, the facts are similar to the first matter except that the acquisition was under preliminary notification dated 6.8.1988/24.5.1988. The Reference Court had awarded Rs.58.50 by its judgment dated 31.12.2001. The High Court refused to increase the compensation to Rs.66 per sq.m as claimed by the appellants.

3. For the reasons stated in the order in the first matter, this appeal is also allowed and the rate of compensation is increased from Rs.58.50 to Rs.66 per sq.m (by increasing the 1986 market value of Rs.54.50 by a cumulative rate of 10% per year for two years). The award of the Reference Court as modified by High Court in regard to solatium, additional amount, interest etc., will apply. Parties to bear respective costs.

CA No. 5271 of 2008 (arising out of SLP (C) No.7863/2006)

Leave granted. Heard learned counsel for the parties.

2. In this appeal also, the facts are similar to the first matter except the date of preliminary notification which is 7.4.1988. The Reference Court has awarded Rs.58.50 by its judgment dated 31.12.2001. The High Court refused to increase the compensation to Rs.66 per sq.m as claimed by appellants.

3. For the reasons stated in the order in the first matter, this appeal is also allowed and the rate of compensation is increased from Rs.58.50 to Rs.66 per sq.m (by increasing the 1986 market value of Rs.54.50 by a cumulative rate of 10% per year for two years). The award of the Reference Court as modified by High Court in regard to solatium, additional amount, interest etc., will apply. Parties to bear respective costs.

.....J
[R. V. Raveendran]

.....J
[Lokeshwar Singh Panta]

New Delhi;
August 26, 2008.