

**HIGH COURT OF GUJARAT**

**SPECIAL LAND ACQUISITION OFFICER  
V/S  
SURAJBEN TEJAJI**

**Date of Decision:** 14 July 2008

**Citation:** 2008 LawSuit(Guj) 1453

**Hon'ble Judges:** [K S Jhaveri](#)

**Case Type:** First Appeal; First Appeal; Civil Application; Civil Application

**Case No:** 914 of 2008; 930 of 2008; 7794 of 2008; 7810 of 2008

**Final Decision:** Appeal dismissed

**Advocates:** [Sunit Shah](#), [D R Chauhan](#), [Trusha K Patel](#), [Hemant Makwana](#), [K M Sheth](#)

**Judgement Text:-**

K S Jhaveri, J

[1] These appeals are directed against the judgment and award passed by the learned 4th Addl. Senior Civil Judge, Ahmedabad (Rural) at Navrangpura in Land Acquisition Cases No. 369/2003 to 372/2003 and 374/2003 to 386/2003 dated 09.05.2006 whereby, the Reference Court awarded additional compensation @ Rs.67.20 per sq. metre as against the claim of Rs.100/- per sq. metre by the claimants.

[2] The facts in brief leading rise to the filing of the present appeals are as under;

2.1 The appellant State proposed to acquire the agricultural lands of Village Kadadara, Taluka Dehgam, District Ahmedabad for the purpose of

construction of a Canal under the Narmada Project. A Notification under Section 4(1) of the Act was issued, which was published in the Official Gazette on 20.01.2000. Thereafter, the State Government made a declaration under Section 6 of the Act, which was published on 06.12.2000. The interested persons were served with Notices for determination of compensation payable to them. The claimants appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs.100/- per sq. metre. However, the Special Land Acquisition Officer offered compensation to the claimants at the rate of Rs.6/- per sq. metre.

2.2 The claimants, seeking higher compensation, raised a dispute, which, ultimately, came to be referred to the competent Court by way of References. On appreciation of the evidence adduced by the parties, the Reference Court was of the opinion that the previous award of the Reference Court relating to the lands of the very same Village was a relevant piece of evidence and furnished good guidance for the purpose of determining the market value of the lands acquired in the instant case. The learned Judge noticed that notification under Section 4(1) of the Act was published in the Official Gazette on 11.01.1990 for the lands acquired earlier; whereas, in the instant case, the notification under the said Section was issued on 20.01.2000. He, thereafter, calculated the reasonable rise in the price of the lands at the rate of 10% per annum. For earlier acquisition of the lands, award at the rate of Rs.37.60 per sq. metre was passed. Considering that aspect, the trial Judge derived a figure of Rs.73.20 per sq. metre and ordered to pay the additional compensation at the rate of Rs.67.20 per sq. metre over and above the compensation awarded by the Land Acquisition Officer at the rate of Rs.6/- per sq. metre.

**[3]** Learned AGP for the appellant State submitted that the claimants had not produced sale bills or purchase bills to show the expenditure incurred by the claimants for fertilizers, seeds, medicines, etc. It is further contended that even apart from the above bills, no document is produced to prove that the lands in dispute were of equal fertility, potentiality and having equal facilities as compared to the lands for which L.A.R. No.705 of 1991 was passed. It is also contended that the learned trial Judge has not discussed the aspect as to how the said award was comparable. In response, Mr. K. M. Sheth has submitted that as the lands of earlier Reference were of the same Village, it could safely

be presumed that the award was comparable.

**[4]** Heard learned counsel for the respective parties and perused the documents on record. Having gone through the entire record, I am of the opinion that the compensation awarded by the learned Civil Judge is absolutely just and proper. The learned Civil Judge has rightly considered the award passed in L.A.R. Case No. 705 of 1991 as the same was comparable in facts and circumstances of the present case. The said Reference was for the lands of the very same village having similar fertility, potentiality and facilities. It may also be noted that the said award is accepted by the acquiring authorities.

**[5]** It may also be noted that the acquiring authority had chosen not to examine any witness on its behalf. Not only that but it has also not led any documentary evidence to show that the market price of the acquired lands were below Rs.73.20 per sq. metre. It is true that the claimants could not make good their assertion that they were entitled to get the compensation at the rate of Rs.100/- per sq. metre. However, the record indicates that, by producing the comparable award, they could prove that they were entitled to get the compensation at the rate of Rs.73.20 per sq. metre. In view of the time gap between two Notifications published under Section 4(1) of the Act, the claimants would be entitled to benefit of reasonable rise in prices of lands at the rate of 10% per annum. Hence, the Reference Court has rightly awarded the additional compensation at the rate of Rs.67.20 per sq. metre. I do not find much substance in the contentions of the learned Assistant Government Pleader.

**[6]** By no stretch of imagination, Rs.73.20 per sq. metre can be termed as excessive or exorbitant, when the State has compulsorily acquired the said lands against the wish of the claimants and when they have lost their livelihood. The award passed by the Special Land Acquisition Officer granting the compensation at the rate of Rs.6/- per sq. metre was arbitrary and atrocious and hence, the Trial Court has rightly enhanced it to the tune of Rs.73.20 per sq. metre. It is well settled principle of law that the previous award passed by the Reference Court relating to the lands of same village, if has attained finality, is a very good piece of evidence for the purpose of determining market value of similar lands acquired from the same village subsequently.

**[7]** In the facts and circumstances of the case, this Court is of the opinion that the Reference Court did not commit any error in enhancing the compensation. The Civil Court has passed a well reasoned judgment. This Court, therefore, finds no reason to interfere with the award passed by the Reference Court. Hence, the appeals are

dismissed. There shall be no order as to costs. The Registry is directed to draw the decree in terms of this judgment immediately. The amount deposited by the appellants at the time of admission of the appeals may be disbursed to the respective claimants after verification of their identity, if not disbursed so far.

**[8]** Record and proceedings, if lying with the Registry of this Court, be sent back to the trial Court concerned.

