

SPECIAL LAND ACQUISITION OFFICER, KHEDA
AND ANR. ETC.

v.

VASUDEV CHANDRASHANKAR AND ANR. ETC.

APRIL 8, 1997

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Land Acquisition Act, 1894 :

Compensation—Award of—Reference Court awarding at the same rate as in some other survey no. in the same village—Held : In the absence of any distinct material brought on record, there is no hazard to conclude that the lands offered no comparative value—No interference warranted.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2852-77 of 1997.

From the Judgment and Order dated 4.7.95 of the Gujarat High Court in F.A. No. 1125-1150 of 1995.

B.V. Desai, Ms. H. Wahi and Ms. Nandini Mukherjee for the Appellants.

Yashank Adhyaru, Ashish Wad, Abraham and Ms. J.S. Wad for the Respondents.

The following Order of the Court was delivered :

Delay condoned.

Leave granted.

Notification under Section 4(1) of the Land Acquisition Act was published on August 14, 1986 acquiring 12 Hectares, 95 are 88 sq. metres of the land for the construction of Ahmedabad-Baroda Express Highway. The lands are situated in village Marida, Tal. Nadiad, District Kheda. Land Acquisition Officer awarded compensation in his award dated 1.4.1987 at the rate of Rs. 250 per Are. Dissatisfied therewith, the respondents sought for enhancement and reference was made under Section 18. The learned Assistant District Judge, by his award and decree dated August 26, 1992,

enhanced the compensation to Rs. 2,500 per Are which was affirmed by the High Court in the impugned judgment dated July 4, 1995 in First Appeal Nos. 1125-1150/95. Thus, these appeals by special leave.

We have heard the learned counsel on both sides. It is not necessary to go into all other documents. Suffice it to that in another award of the Reference Court under Ex. 43, relating to the same village, the land was acquired by notification dated May 3, 1979. The reference Court awarded compensation at the rate of Rs. 2,100 per Are. The appellants did not carry in appeal against the award. Thus, the award became final. The lands in question also situated in the same village but on different survey numbers. Some of the claimants also are the claimants in the earlier acquisition as well, as stated in the note appended to the synopsis filed before this Court. Therefore, due to the time lag of 8 years, the reference Court awarded compensation at the rate of Rs. 2,500 per Are.

The question, therefore, is : whether the assessment of the compensation made by the reference Court is vitiated by any error of principle of law warranting interference. It is now settled legal position that the award of the reference Court relating to the same village of the similar land possessed of same quality of land and potential offer a comparable base for determination of the compensation. The reference Court also noted in paragraphs 18 and 19 of the similarities of the lands under acquisition and that they were covered by Ex. 43. No doubt, the lands under acquisition are situated at the outskirts of the village. In the absence of any tangible material brought on regard, as regards the distinctive features of differentiation between the quality of the lands situated, the land, subject matter of Ex. 43 and the lands under acquisition Ex. 48, it is difficult to find out whether the reference Court has applied any wrong principle of law in determination of the compensation. In the light of the findings recorded by the reference Court in paragraphs 18 and 19, we think that, in the absence of any distinct material brought on record, even in cross-examination of the witnesses, we cannot hazard to conclude that they offered no comparable value, in particular, when the award earlier has already attained finality. Under these circumstances, we think that there are no circumstances warranting interference.

The appeals are accordingly dismissed. No costs.

Appeals dismissed.