

Received on :- 15/01/2019
Registered on :- 15/01/2019
Decided on :- 13/09/2019
Duration :- y. m. days.

In the court of the Principal Senior Civil Judge at Talaja.

Review No.01/2019 (02/2019 to 49/2019)

Ex.-

Applicants:-

Sr.No.	REWA No.	Name
1	1/2019	1.Panchabhai Dudabhai 2.Madhabhai Bagwanbhai 3.Jadavbhai Dudabhai 4.Ravjibhai Mavjibhai 5.Jadiben Bhagwanbhai 6.Gangaben Bhagwanbhai 7.Puriben Bhagwanbhai 8.Jivabhai Bhagwanbhai Through his V.K. Panchabhai Dudabhai AT- Paniyali, Ta.Talaja, Di.Bhavnagar
2	2/2019	Mithabhai Govindbhai Through his V.K. Lalabhai Nathabhai AT- Paniyali, Ta.Talaja, Di.Bhavnagar
3	3/2019	Ranubha Kalubha AT- Paniyali, Ta.Talaja, Di.Bhavnagar
4	4/2019	Samatsinh Devisinh Through his V.K. Kishorsinh Samatsinh AT- Paniyali, Ta.Talaja, Di.Bhavnagar
5	5/2019	Boghabhai Hirabhai AT- Paniyali, Ta.Talaja, Di.Bhavnagar
6	6/2019	Nathabhai Boghabhai AT- Paniyali, Ta.Talaja, Di.Bhavnagar

7	7/2019	Surendrasinh Jagdishsinh Gohil AT- Paniyali, Ta.Talaja, Di.Bhavnagar
8	8/2019	Arvindkumar Lalubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
9	9/2019	1.Anopsinh Hadubha 2.Vikramsinh Hadubha Through his V.K. Vikramsinh Hadubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
10	10/2019	Samatsinh Devisinh Through his V.K. Kishorsinh Samatsinh AT- Paniyali, Ta.Talaja, Di.Bhavnagar
11	11/2019	1.Bharatsinh Dilubha 2.Nirubha Dilubha 3.Bhakubha Dilubha 4.Sahadevsinh Dilubha 5.Vikramsinh Jivubha Through his V.K. Dilubha Jivubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
12	12/2019	1.Bhagirath Harilal 2.Anantray Harilal 3.Ramesh Harilal 4.Vilasben Harilal 5.Nituben Harilal 6.Naynaben Harilal Through his V.K. Bhagirath Harilal & Rameshchandra Harilal AT- Kukad, Ta.Ghogha, Di.Bhavnagar
13	13/2019	Vikramsinh Samatsinh AT- Kukad, Ta.Ghogha, Di.Bhavnagar
14	14/2019	Anandbhai Gilabhai AT- Kantala, Ta.Ghogha, Di.Bhavnagar
15	15/2019	1.Devkunvarba Keshubha 2.Ramsangbhai Keshubha 3.Bharatsang Keshubha 4.Janakba Keshubha 5.Hemuba Keshubha Through his V.K. Bharatsang Keshubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar

16	16/2019	Jasubha Shivubha Through his V.K. Nayubha Jasubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
17	17/2019	1.Jayrajsinh Jitubha 2.Nimuba Jitubha 3.Baluba Jitubha 4.Bairajba Jitubha 5.Vajubha Maluji 6.Silaba Maluji 7.Dilubha Maluji 8.Dharmendrasinh Maluji 9.Mahavirsinh Maluji 10.Lakhdhirsinhji Maluji Through his V.K. Lakhdirsinh Maluji AT- Kukad, Ta.Ghogha, Di.Bhavnagar
18	18/2019	Kanaksinh Mahipatsinh AT- Kukad, Ta.Ghogha, Di.Bhavnagar
19	19/2019	1.Natwarsinh Gambhirsinh Gohil 2.Pratapsinh Bahadursinh Gohil 3.Sukhdevsinh Bahadursinh Gohil Through his V.K.Pratapsinh Bahadursinh Gohil AT- Kukad, Ta.Ghogha, Di.Bhavnagar
20	20/2019	1.Lilaba Ajitsinh 2.Minor Pradhyumansinh, Vanrajsinh, Hardevsinh, Pradutba AT- Kukad, Ta.Ghogha, Di.Bhavnagar
21	21/2019	Ramdevsinh Pravinsinh Through his V.K.Lalabhai Nathabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
22	22/2019	Sahadevsinh Jagdishsinh Through his V.K. Kishorsinh Samatsinh AT- Kukad, Ta.Ghogha, Di.Bhavnagar
23	23/2019	Jaypalsinh Batuksinh Gohil AT- Kukad, Ta.Ghogha, Di.Bhavnagar
24	24/2019	Jayendrasinh Hemubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
25	25/2019	Bhimnath Mahadev

		Through his V.K. Kashiben Gurajgar Minor Manhargar, Dipakgar, Pratapgar, Anopgar & Usha Anopgar AT- Kukad, Ta.Ghogha, Di.Bhavnagar
26	26/2019	Bahadursinh Hadubha Gohil AT- Kantala, Ta.Ghogha, Di.Bhavnagar
27	27/2019	1.Nonghabhai Bhikhabhai 2.Bhayabhai Tabhabhai AT- Kantala, Ta.Ghogha, Di.Bhavnagar
28	28/2019	Batukbha Natubha AT- Kantala, Ta.Ghogha, Di.Bhavnagar
29	29/2019	1.Bhikhubha Shivubha 2.Sajubha Shivubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
30	30/2019	Mavjibhai Dayabhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar
31	31/2019	Laxmanbhai Limbabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
32	32/2019	Rudabhai Ukabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
33	33/2019	1.Jatubha Gopalji 2.Jatubha Balubha 3.Tapubha Ranabhai Through his V.K. Haritsinh Chhanubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
34	34/2019	1.Bhikhubha Velubha 2.Bahadursinh Velubha 3.Lalubha Kanubha Through his V.K. Sujansinh Lalubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
35	35/2019	Nathabhai Ukabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
36	36/2019	Batukbhai Jethubha AT-Kantala, Ta.Ghogha, Di.Bhavnagar
37	37/2019	Natubha Nanbha AT-Kantala, Ta.Ghogha, Di.Bhavnagar

38	38/2017	1.Mahavirsinh Maluji 2.Dharmendrasinh Maluji 3.Bhagirathsinh Maluji AT- Kukad, Ta.Ghogha, Di.Bhavnagar
39	39/2017	1.Lilubha Abheysinh 2.Indubha Abheysinh 3.Devkuvarba Abheysinh 4.Vasantba Abheysinh 5.Hamjiba Abheysinh AT- Kukad, Ta.Ghogha, Di.Bhavnagar
40	40/2019	Bhayabhai Tabhabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
41	41/2019	1.Dashrathsinh Pathubha 2.Banesinh Pathubha 3..Sajjansinh Pathubha 4.Ghanshyamsinh Pathubha 5.Jagdishsinh Pathubha 6.Sumanba Pathubha 7.Vijayaba Pathubha 8.Nandkunvarba Pathubha Through his V.K.Dashrathsinh Pathubha Gohil AT- Kukad, Ta.Ghogha, Di.Bhavnagar
42	42/2019	1.Budhabhai Bachubhai 2.Harjibhai Bachubhai 3.Vallabhbhai Bachubhai 4.Bhagwanbhai Bachubhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar
43	43/2019	Raiyabhai Mavjibhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar
44	44/2019	1.Laxmanbhai Pragabhai 2.Vashrambhai Pragabhai 3.Rajabhai Pragabhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar
45	45/2019	1.Bharatsinh Takubha 2.Pravinsinh Takubha AT- Kukad, Ta.Ghogha, Di.Bhavnagar
46	46/2019	Jakabhai Mavjibhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar

47	47/2019	1.Ghughabhai Gandabhai 2.Nimiben Ghughabhai Through his V.K. Nathabhai Ghughabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
48	48/2019	1.Balabhai Ghelabhai Through his V.K. Jodhabhai Ghelabhai 2.Rajuben Jinabhai 3.Rekhaben Jinabhai 4.Liliben Jinabhai 5.Champaben Jinabhai 6.Kasliben Ghelabhai 7.Gangaben Ghelabhai 8.Bachuben Ghelabhai 9.Paniben Ghelabhai 10.Tejuben Ghelabhai 11.Raliyatben Ghelabhai AT- Kukad, Ta.Ghogha, Di.Bhavnagar
49	49/2019	Laxmanbhai Haribhai AT-Kantala, Ta.Ghogha, Di.Bhavnagar

V/s

Opponents :-

- 1) THE STATE OF GUJARAT
- 2) SPECIAL LAND ACQUISITION OFFICER
LAND ACQUISITION IRRIGATION AND
REHABILITATION RAJKOT

Sub.:- Application for review under O.47 R.1 of Code of Civil Procedure read with section 18 of the Land Acquisition Act 1984.

Mr. B.H.Upadhyay, Ld. Advocate for the Applicants
Mr. V.G.Mandliya, Ld. AGP for the Opponents

-: Judgment:-

- (1) The present applications have been given by the applicants under O. 47

R . 1 of the Code of Civil Procedure read with section 18 of the Land Acquisition Act 1984.

The applicant/s above named respectfully submits as under

1. The State of Gujarat, for Jasapara mandava irrigation scheme, at Ghogha Taluka at Bhavnagar district proposed acquisition, in the year 1995 and pursuant thereto acquisition proceedings commenced. The deputy collector, land acquisition and rehabilitation (irrigation), Rajkot was appointed as a special land acquisition officer.
2. It appears that the land acquisition officer pronounced his award under section 11 of the land acquisition Act. The land of the present applicant was also proposed to be acquired, and is agreed by the Special land acquisition officer which was not satisfactory, accordingly, the applicant applied for enhancement of compensation under section 18 of Land Acquisition Act which was forwarded to Honorable court of district judge, Bhavnagar, who numbered the said reference application. Before the matter could be disposed off on merits, some changes occurred in Gujarat civil court act, accordingly, the matter was transferred to the Honorable Court of principal civil judge, at Talaja, who renumbered the same.
3. By order and award dated 7th December, the Learned Talaja court was pleased to dispose of the same. The applicant obtained a simple copy and on reading the same, the applicant believed that the judgment suffers from certain errors appeared on the face of recorded including the errors cropped in due to the typographical mistakes.
4. The certified copies are applied but till the moment not received. The applicant as well applied for the certified copy of bill of cost, the same is not ready till the moment. Applicants undertakes to produce the same as and when received.

5. As lands of other landholders were also acquired by the same award and they also preferred reference applications under section 18, accordingly all the applications were consolidated by order below exhibit 11. The learned trial court was pleased to consolidated the same and was pleased to dispose off all applications by a common order dated 7th December 2018.

6. As the applicant believes as there is error on the face of record in the award, the applicant prefers this review application under O. 47 R.1 of CPC, on the following grounds, together with other grounds, which may be raised and allowed to argue at the time of admission and final hearing.

GROUND

- a. The order and award suffer from the errors apparent from face of record therefore the order requires to be reviewed.
- b. The Learned court failed to appreciate the evidence in its true perspective and thereby perverse finding of facts have cropeed in.
- c. The learned trial court failed to exercise the jurisdiction which is vested with as well as it has assumed jurisdiction which is not vested with it.
- d. The learned trial court unconsciously failed to distinguish between the compensation for Jirayat land and compensation for Bagayat land. It is submitted that Bagayat Land has approx. doubled the price that of the Jirayat Land.
- e. The Learned trial court missed to appreciate the law laid down by Honorable supreme court, reported at 2016 (4 S.C.C page number 544). It is submitted that in view of article 300 of constitution of India, the Hon'ble Supreme Court was pleased to observe, that each and every citizen is entitled to a fair compensation, irrespective of his demand which might have been claimed below the fair value. That does not restrain the

Honorable court to award the amount of compensation more than amount claimed in the petition and the Honorable court is supposed to award the compensation which is fair in eye of law. It is a constitutional mandate.

- f. The learned trial court failed to appreciate the established facts namely trees, construction, pipelines, etc. which are so recorded in the text of record by the land acquisition officer and compensation is not paid for them.
- g. It is submitted that there is a breach of constitutional rights of the applicant as he has lost the property without compensation.
- h. The learned court failed to appreciate the law laid down by Supreme court that the eventuality of acquisition of land situated at nearby land and villages for the same purpose of acquisition by the same scheme, all the land holders are entitled to have compensation at par with each other.
- i. It is submitted that in the present case, the learned trial court has missed to follow the said ratio laid down by honorable Supreme court of treatment at par in view of the decision and award rendered by 12th Additional civil judge at Bhavnagar in land reference case no. 16 of 2009 to 80 of 2009 dated. 11th March-2006.
- j. It is submitted that there is material discrepancy in the name of applicants in award. The same be rectified accordingly.
- k. The learned trial court failed to award all statutory benefits mandated by the statutes.
- l. the learned trial court failed to appreciate the ration and observation made by Learned Supreme court to the effect that the trend in the market is upwards and that factor is to be considered by the court.

Under the premises this honorable court be pleased to review its order and award dated 07th December 2018 in consonance with the grounds detailed above and order an award be accordingly amended and amount of

market value be enhance to meet with the slandered of fair compensation as mandated by Honorable Supreme court.

- (2) These applications were transferred by the Hon'ble Principal District Judge, Bhavnagar for hearing and disposal following law. Then the matter was registered, the Court issued a notice to the parties of these applications specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day. The Ld. Advocate for the applicants as well as Ld. A.G.P for the opponents appeared before the court.
- (3) Then after the Ld. Advocate for the applicants applied vide exhibit-7 for making of an order for consolidation of all the connected group matter i.e.review No- 2/2019 to 49 /201 9 in review No1/2019. The Ld. A.G.P has made endorsement as no objection in passing an order of consolidation of the said matters. Since all the applications are for the same area and for the same purpose of the irrigation scheme, the order passed below exhibit-7 consolidating all this application for review and the hearing in review No- 1/2019 shall be deemed to be heard in all review No- 2/2019 to 49 /2019.
- (4) Heard the Ld. Advocate of the applicants as well as Ld. A.G.P for the opponents. Read other papers on record. Looking at the fact and circumstances of the cases and heard the Ld. An advocate of both the parties as well as respectfully read the Judgement of the Hon'ble Supreme Courts, produced by the applicants.

The applicants have prayed that the review of the order and award dated 7th December 2018 an amended and amount of market value be en hanced to meet with the slandered of fair compensation as mandated by Hon'ble Supreme Court. However, the other side has raised objection to this

application.

- (5) Review of a Judgment or Order provided in Order 47 means a judicial examination of the case in certain specified and prescribed circumstances. As per settled principle of law, the scope of review is very restricted and judgment or an Order can be reviewed on three grounds namely:
1. discovery of new and important matter of evidence which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the decree was passed or Order was made, or
 2. Some mistake or error apparent on the face of the record, or
 3. for any other sufficient reasons.

In the cases relied on by the applicants, The Hon'ble Courts have held that "the scope of review is limited to the error apparent on the face of record only. If a party is aggrieved by any judgement that it has not been decided as per law, such arguments may be agitated in appeal before the Superior Court but not in a review petition". In the case of Avtar Singh V/s Union Of India reported in AIR 1980 SC 2041, the Hon'ble Supreme Court has held review is not a routine procedure, material error manifest on the face of earlier order resulting in miscarriage of justice must be proved.

In the case of **Jasmin Minerals Pvt Ltd vs STATE OF GUJARAT (C/MCA/3558/2016)** on 7th April 2017- The Hon'ble Gujarat High Court, after relied on various judgments of Hon'ble High Court and Hon'ble Supreme Court, held that,

"17. Keeping in view the aforementioned principle of the Hon'ble Apex Court there is no hesitation in holding that the application, the pleadings and the contentions raised by the learned

advocate for the applicant fail to satisfy the requirement of Order XLVII of the Code of Civil Procedure. The applicant is not able to satisfy the Court that there is a discovery of new and important matter or evidence which was not available with the applicant after an exercise of due diligence. He is also unable to point out any mistake or error apparent on the face of the record, except mentioning the wrong year in para 3.4 of the judgment. Such typographical mistakes cannot be considered as an error apparent for invoking review jurisdiction. He is also unable to satisfy the existence of any other sufficient reason which would entail the review of the judgment. In fact, the arguments made by the applicant are on the merits of the First Appeal, which is still pending for final hearing, and therefore, this application appears to be an appeal in disguise and an attempt to get the application re-heard on merits.

18. This not being permissible under the law, this application deserves to be and is hereby dismissed. Notice, if any, is discharged.”

- (6) Looking to the record and Considering the submission of Ld. Advocates as well as grounds mention in this application, As per settled principle of law by the various Hon'ble Court and as per provisions of the settled law, in the case on hand the applicants failed to establish that there is an error apparent on the face of record. The applicant failed to establish the three essential ingredients. This court is of the view that the decision of this Court in respect of the order and award passed by this court on 08/12/2018 is not attracted under the essential ingredients of this application and Provisions as mentioned by the applicants. Under the circumstances, as there is no ground for review, I pass the following order.

--:ORDER::--

1. The Application for review under O.47 R.1 of Code of Civil Procedure read with section 18 of the Land Acquisition Act 1984 is hereby rejected.
2. No order as to cost
3. Order declared today in open court on 13th September 2019

The original Order shall be kept with the record of the case file of Review no. 1/2019 and copy thereof shall be kept in each review applications disposed off by this common judgement.

Date:- 13-09-2019

(Suhel Abdulrashid Tailor)

Principal Senior Civil Judge,
Talaja, Bhavnagar,
Code No.GJ00990.