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Year Month Days

Exh._____

**In the Court of Principal Senior Civil Judge,
Amreli, Dist. Amreli.**

**Land Reference Case No. 31/2013 to 42/2013
(Main Land Reference Case No. 31/2013)**

Land Reference Case No.31/2013

Claimant : Rameshbhai Shambhubhai Padsala,

Land Ref. Case No.32/2013

Claimant : Rameshbhai Shambhubhai Padsala,

Land Ref. Case No.33/2013

Claimant : Himmatbhai Goganbhai Savaliya,

Land Ref. Case No.34/2013

Claimant : Madhubhai Kanjibhai Khatara,

Land Ref. Case No.35/2013

Claimant : Muljibhai Raghavbhai Kothari,

Land Ref. Case No.36/2013

Claimant : Rameshbhai Raghavbhai Kothari,

Land Ref. Case No.37/2013

Claimant : Bharatbhai Devshibhai Bhimani,

Land Ref. Case No.38/2013

Claimant : Dakubhai Raghavbhai Kothari,

Land Ref. Case No.39/2013

Claimant : Champaben Jayantibhai Bhimani,

Land Ref. Case No.40/2013

Claimant : Jayantibhai Devshibhai Bhimani,

Land Ref. Case No.41/2013

Claimant : Vinubhai Goganbhai Savaliya,

Land Ref. Case No.42/2013

Claimant : Samjuben Bhurabhai Padsala
(Address is not mentioned in the application by the claimants)

Vs.

Opponents : (1) The State of Gujarat,
(Notice/Summons through District Collector, Amreli)

(2) Dy. Collector,
(Land Acquisition & Rehabilitation)

(3) Executive Engineer,
(Road and Building Department) Amreli.

Appearance :

Ld. Advocate for the Claimants : Mr. U. A. Pandya.

Ld. In-charge DGP for the opponent Nos. 1 & 2 : Mr. J. B. Rajgor.

Ld. Advocate for the opponent No. 3 : Mr. P. J. Shukla.

:: J U D G M E N T ::

[1] Present Land Acquisition Reference cases have been arisen from the Award dated 02/09/2013 passed in Land Acquisition Case No. 13(1)/12 by Dy. Collector, Amreli under section 11 of the Land Acquisition Act (hereinafter referred to as the Act for brevity and convenience).

[2] Relevant dates and facts of the LAQ case are as under :

Date of Notification u/S.4 of the Act	29/09/2012
Date of publication of notification u/S.4 of the Act	18/10/2012
Date of Notification u/S.6 of the Act	23/05/2013
Date of publication of notification u/S.6 of the Act	06/06/2013
For Project	Rikadiya-Chital-Jaswantgadh Road Project
Location	Village : Rikadiya, Ta. & Dist. : Amreli
Date of Award u/S.11 of the Act	02/09/2013
Total area under acquisition	00-93-16 H.-A.-Sq.Mtr.
Market value held by Sp. Land Acquisition officer	Rs. 160 per sq.mtr. for Gamtal land Rs. 47 per sq.mtr. for Bagayat land Rs. 42 per sq.mtr. for Jirayat land
Market value prayed by claimants per sq.mtr.	Rs.500 per sq.mtr.
Date of reference application to the Land Acquisition Officer	29/11/2013
Present land reference referred to the Court	03/12/2013

[3] Claimants have filed the reference cases u/S.18 of the Act for the enhancement of the compensation. References have been arisen from the common Award made u/S.11 of the Act by the Land Acquisition Officer on 02/09/2013 for the lands of which measurement and description are given in

the Award compensation. The lands of village Rikadiya, Tal. :Amreli, Dist.: Amreli are acquired for the purpose of Rikadiya-Chital-Jaswantgadh Road Project. Notification u/S.4 was published on 18/10/2012 and u/S. 6 was published on 06/06/2013. After following due procedure of law, the Land Acquisition Officer declared the Award determining the market value of land of the claimants at Rs. 160/- per sq.mtr. for Gamtal land, Rs. 47/- per sq.mtr. for Bagayat land and Rs. 42/- per sq.mtr. for Jirayat land. The details of the acquired lands are given by the Land Acquisition Officer in the statement annexed with the Award. With regard to measurement and distribution, there is no dispute between the parties.

[4] The Dy. Collector, Amreli acquired following lands situated in the village Rikadiya, Tal.Amreli, Dist.Amreli for the purpose of Rikadiya-Chital-Jaswantgadh Road Project.

Sr. No.	Name of the land owner	Block/Survey No. of the acquired land	Total area of acquired land
1.	Samjuben Bhurabhai etc. 7	42/1	0-04-42
2.	Samjuben Bhurabhai	42/2	0-08-55
3.	Rameshbhai Shambhubhai	43/1	0-01-80
4.	Rameshbhai Shambhubhai	43/2	0-20-66
5.	Ramuben Laljibhai	45/1 Paiki	0-00-32
6.	Jaysukhbhai Ravjibhai	45/1 Paiki	0-00-14
7.	Vinubhai Gaganbhai	59/1	0-00-54
8.	Parshottambhai Bhadabhai	60/1	0-06-45
9.	Himmatbhai Goganbhai	60/2 Paiki	0-03-68
10.	Vinubhai Goganbhai	60/2 Paiki	0-05-70
11.	Vitthalbhai Vaghjibai	79 Paiki	0-00-68
12.	Madhubhai Gandabhai	80	0-06-30
13.	Madhubhai Kanjibhai	81 Paiki	0-04-64
14.	Babubhai Kanjibhai	81 Paiki	0-00-66
15.	Muljibhai Raghavbhai	83 Paiki	0-00-68
16.	Rameshbhai Raghavbhai	83 Paiki	0-01-76
17.	Dakubhai Raghubhai	83 Paiki	0-06-74

18.	Bharatbhai Devshibhai	84 Paiki	0-16-26
19.	Chmpaben Jayantibhai	84 Paiki	0-00-10
20.	Jayantibhai Devshibhai	84 Paiki	0-03-08

[5] Claimants have stated that all the references are having common evidence and the lands which are acquired are situated nearby. Therefore, all the reference applications have been consolidated for evidence and further proceedings are taken in **Land Reference Case No. 31/2013**. It is the case of the claimants that they have accepted the amount of Award with protest as the said amount of compensation is inadequate, meager and insufficient considering the price prevailing at the time of notification u/S.4. It is the case of the claimants that they have claimed Rs.500/-per sq. mtr. considering the yield products taken by them from the acquired lands. However, the Land Acquisition Officer has awarded and fixed the market price at the rate of Rs. 160/-, 47/- & 42/- per sq. mtr. for Gamtal, Bagayat & Jirayat land respectively on the basis of sale instances for previous five years, which is very less and inadequate.

[5.1] The claimants have further submitted that the lands which are acquired are of great potentiality and fertility and capable of fetching more value. The Land Acquisition Officer has valued their land at very low price. He has mistaken in that and has not taken into consideration documents and evidences. Land Acquisition Officer has also not taken into consideration the hedge, embankment, trees, well, bore-well as well as construction over the land. He had to consider crops, yield products and prevailing market rate of yield products which he has not considered. Hence, he has committed this gross mistake. The acquired lands are irrigated by claimants by wells and tube-wells. Lands which are acquired are of Bagayat in nature and fertile lands. Further, the acquired lands were the only source of livelihood of applicants. It is further averred that in September-2013, new law has come into effect, but the provisions of the said law were not followed in the present case and Award is passed as per old provisions of the Act. Hence, claimants are entitled for the benefits under the Act.

[6] The notices of the references were served upon the opponents. Opponent Nos.1 & 2 have produced written statement at Exh.15. After denying the allegations, they have submitted further that Land Acquisition Officer made the Award after taking into consideration all the relevant sale instances and factors and there is no reason to disturb the said Award because it is legal proper as well as adequate. They have requested to reject the references.

Ld. Advocate Mr. P. J. Shukla for the opponent No. 3 adopted the reply produced by the opponent Nos. 1 & 2, by purshis vide Exh. 16.

[7] The Predecessor Court framed following Issues at Exh.17 for the decision of the claims :

- (1) Whether the applicant proves that the amount paid by the land Acquisition Office for the land acquired by the Government is inadequate as alleged ?
- (2) Whether applicant is entitled to get additional compensation ? If yes, how much ?
- (3) Whether present application (Reference) is barred by law of Limitation ?
- (4) What order and Award ?

[7.1] Findings for the above issues are as under :

- (1) In negative.
- (2) In negative.
- (3) In negative.
- (4) As per final order.

[8] Claimants have produced following oral as well as documentary evidences to prove their claims:

[8.1] **Oral Evidences of claimants :**

Exh. 40 is deposition of claimant Bharatbhai Devshibhai Bhimani (LRC No. 37/13)

Exh. 50 is deposition of witness Pareshbhai Dhirajlal Pandya.

[8.2] **Documentary Evidences of claimants :**

Exhs. 4 & 44 are certified copies of Award of date 02/09/2013 passed in Acquisition Case No. 13(1)/12.

Exh. 45 is cash receipt of the Agriculture Product Market Committee, Amreli of date 12/05/2012. But in whose name the receipt is prepared, is not party in this case.

Exh. 46 is purchase voucher of Shri Devbhoomi Cotton Industries of date 13/07/2013. But in whose name the voucher is prepared, is not party in this case.

Exh. 47 is photograph.

[9] **Oral evidence of opponents :**

Exh. 53 is oral deposition of Shri D. N. Satani, Dy. Collector, Amreli.

[9.1] **Documentary Evidences of opponent No. 3 :**

Exh. 84 is certified copy of judgment of date 02/05/2019 passed in Group L.R. Case No. 4/2013.

Ld. Advocate Mr. P. J. Shukla appearing for the opponent No. 3 has adopted the evidences produced by the opponent Nos. 1 & 2, by purshis vide Exh. 55.

[10] On behalf of claimants, their Ld. Advocate has argued as per the facts mentioned in the application and also submitted written arguments vide Exh. 82 and prayed that claimants are entitled for the benefits under Act.

[11] On behalf of opponent Nos. 1 & 2, Ld. in-charge DGP has argued as per W.S. of Exh. 15 and submitted that the price determined by Land Acquisition Officer is just and proper and hence, present applications be rejected. While, on behalf of the opponent No. 3 his Ld. Advocate has also argued that claimants are not entitled for any further compensation and requested to reject the applications.

[12] **Appreciation of Evidence and Reasons :**

All the issues are inter-related, hence, discussed together.

[12.1] For establishing the case, examination-in-chief of claimant of LRC No. 37/13 - Bharatbhai Devshibhai Bhimani is produced at Exh. 40, where, after reproducing the facts of applications, he has also stated several such facts which are not mentioned in the main application. And, he has requested to allow present application. He is cross examined by the Ld. Advocate for the opponents wherein he has mainly said that only 0-16-26 Sqr.Mtr. land is acquired and his remaining land is with him and well as well as house, all are still situated in the remaining land and only 20 ft. land is acquired and hence, he does not have to suffer the loss of income. In his cross examination it is proved on record that he has not produced any evidence to authenticate the sufferings of loss as stated by him in the reference application.

[12.2] The claimants have also examined Pareshbhai Dhirajlal Pandya, employee of Market Yard - Amreli as witness at Exh. 50. From his entire deposition, no such evidence is recorded by which it can be presumed that the claimants were sending any crop of agricultural products to him or any institute related to him.

[12.3] Further, the documentary evidences produced by the claimants clear that Exhs. 4 & 44 (both are same) are the Award u/S. 11 of the Act, where price of Rs. 160 per Sqr.Mtr. for Gamtal Land, Rs. 47 per Sqr.Mtr. for Bagayat land & Rs. 42 per Sqr.Mtr. for Jirayat land are fixed by the Land Acquisition Officer. The facts regarding the lands and its surrounding area are also mentioned in this Award and calculation regarding the fixed price was also made in it. From the facts mentioned in the said Awards, it is very clear that all the relevant factors are taken into consideration while passing the said Award.

[12.4] On behalf of opponents examination-in-chief of Deepakkumar Natwarlal Satani, Dy. Collector, Amreli, is produced at Exh. 53. In his examination-in-chief he has reproduced the facts of written statement. And, he is

cross examined by the Ld. Advocate of the claimants where, he has accepted certain facts, but they are not relevant to fix any amount as further compensation, because, though the questions are asked from the Award only, but they are not such factors which can help to decide present application in affirmative.

[12.5] It is admitted position that claimants are asking for the enhancement of compensation on basis of yield products and fertility and utility of the acquired lands. Special Land Acquisition Officer has awarded the compensation on the basis of previous five years sale instances. Though, claimants have relied upon yield products and price of adjoining lands, but no evidence is produced on record regarding their yield products or sale instances of the time of acquisition. Not even such fact is mentioned in the complaints or examination-in-chief of the claimants that how much yield products they were getting per year or per term. No such evidence is produced to show the price of yield products in the concerned year when the land was acquired. Claimants have also not produced any other evidence which can prove even the probability of yielding the products from the acquired lands. No quantity or quality is mentioned on record to prove the probable income of any product from the acquired land. The description of the acquired lands or its adjoining areas are also not cleared and not proved even prima facie on the record. Hence, in this respect also the claims deserves to be failed. This is really painful that so many years are passed and claimants were waiting for any further compensation, but due to lack of appropriate and sufficient evidence, no relief can be given to the claimants.

[12.6] No evidence is produced by the claimants, so that the amount declared by the Award can be counted as inferior to what was required to be gain by the claimants. In any kind of cases the person who comes in the case has to prove his case with required evidences. When it is not done, then in those circumstances, no one can get any relief and looking to the present case this Court is of the view that claimants have failed to prove the claim and hence, they cannot be allowed with the asked reliefs. Moreover, the judgment produced at

Exh. 84 by the opponent No. 3, which is regarding group L.R. Case No. 4/2013, the Predecessor Court rejected the cases of the same category. Hence, issues Nos. 1 to 3 are replied in negative and for issue No. 4 following final order is passed;

:: O R D E R ::

1. The claims are hereby rejected.
2. The Award be drawn accordingly.

Pronounced in the Open Court today on this 29th day of January, 2020.

Date : 29-01-2020

Place : Amreli.

(Dr. Manjudevi Shardaprasad Pande)
Principal Sr. Civil Judge, Amreli.
U.I. Code No.GJ00860