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**IN THE COURT OF HON'BLE PRINCIPAL SENIOR CIVIL
JUDGE AT KHEDA**

LAND ACQUISITION REF. CASE NO. 01 OF 2025

(Old No.312/1997)

Exh.-

Applicant:

Jagatsinh Vakhatsinh Vaghela
Residing at Radhu
Ta.Matar, Dist.Kheda

V/s.

Opponents:

- 1. Special Land Acquisition Officer,**
Having office at
O.N.G.C. Ahmedabad Project,
Sabarmati, Ahmedabad.
- 2. Deputy General Manager,**
Having office at
O.N.G.C. Ahmedabad Project,
Sabarmati, Ahmedabad.

SUBJECT : L.A.R. Case u/s. 35(3) of the Land Acquisition Act.

Appearances:

Learned Advocate Mr. V.D. Parekh for the applicant

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

1. At the outset, it is pertinent to note that the present reference case was decided by The principal Senior Civil judge, Nadiad, and Judgment and Award was pronounced on 10/01/2011. Being dissatisfied from that judgment and award, opponent had preferred appeal under section 54 of the Land Acquisition Act, 1894 r/w section 96 of The Code of Civil Procedure, 1908, before The Hon'ble High Court of Gujarat vide First Appeal no.1352 of 2012 which was partly allowed, and the judgment and award dated 10/01/2011 was quashed and set aside. The matter was remanded back to the reference court for consideration afresh in accordance with law. Later on, on establishment of Senior Civil court at Kheda, this present reference case is transferred to this court on the basis of territorial jurisdiction.

That the above Land Acquisition Reference Case has been arisen from the award passed by the Special Land Acquisition Officer in L.A.Q. Case No.5/94/K declared on 17/04/1995, whereby, the learned Special Land Acquisition Officer was pleased to award the rental compensation, at the rate of Rs.1950/- for three year starting from 06/12/91 to 06/12/92 Rs.1.25/- per sq.mt. for the acquired land bearing survey Block No. 851/4 area of 1560 sq.mtr situated at Village Radhu, Ta. Matar, Dist. Kheda. They have received the amount of the award with protest and objection, keeping their right reserved to move the

land references for additional rental compensation. According to the claimants the Special Land Acquisition Officer has not taken into the consideration the material factors and compensation which is awarded is very low, unfair, unjust and unreasonable and requested to Learned Special Land Acquisition Officer to forward the above references under Sec.35[3] of the Land Acquisition Act, 1894 (herein after referred to as Act for brevity and convenience).

2. The General Manager, O.N.G.C., Sabarmati made proposal for temporary acquisition of the lands belonging to the claimants for the purpose of the drilling purpose of oil well and accordingly the lands belonging to the claimants are temporarily acquired and possession of the lands were taken by the Opponent No. 1 on dated 03.11.1991. After following the necessary procedure prescribed by the Act, the land acquisition officer pronounced award on 17.04.1995 for the period of three years starting from 06/12/1991 to 06/12/1992 for Rs. 1.25/- per sq.mtr and being aggrieved, the claimants have preferred these land reference case.
3. It is the case of the applicants that the compensation in respect to their acquired lands awarded to them is totally inadequate. It is also stated by the applicants that the lands belonging to the applicants which have been taken under temporary acquisition is agriculture land and the same is very fertile land. The applicant has further stated that the acquired

land have irrigation facility and also there is a bore-well facility in the acquired land. The applicant has further stated that they have taken two to three crops during the year and have earning handsome amount around Rs. 50,000/- to 60,000/- from the acquired land. The applicant has further stated that there is a pakka road in his village and the facility of electricity, water, hospital, school, transportation etc. are available in their village. The applicant has further stated that there is a national highway passed near their village and their village is very developed. The applicant has stated that the rents of the acquired lands were assessed and fixed by the land acquisition officer to be about Rs 1.25 per sq.mt. per year which is totally inadequate and claimant deserves to have Rs.25/- per sq.mt. per year. Hence the applicant have filed the land reference case against alleged award for getting exceeding amount.

4. The notice has been served to the Opponent No. 1 and 2 vide Exh-42, Exh-44 and Exh-45 but inspite of serving notice three times neither the opponents nor their Ld. Advocate were appeared before this Court to prove their case. Hence, inspite of giving ample opportunities to the opponents they were never appeared before this Court to argue their case and hence the right of argument of the opponents was closed by this Court.
5. The Ld. Advocate for the applicant has argued his case at length. The Ld. Advocate for the applicant has argued that the land acquired by the Opponent No. 1 is very fertile land and

after acquiring the said land and after drilling the same the fertility of the acquired land was damaged. The Ld. Advocate for the applicant has argued that the village of the applicant have many facility like water, electricity, school, hospital, transportation etc. and the Land Acquisition Officer have not considered the same things while passing an award and hence the awarded amount of the acquired land is an inadequate and the applicant is deserves to get more compensation for his acquired land and hence the present reference case deserves to be allowed.

6. In view of the pleadings of the parties and rival contentions raised on behalf of them. The following issues were framed at Exh.5(A).

: I S S U E S :

- (i) Whether the compensation awarded by the Land Acquisition Officer is not fair and adequate ?
- (ii) What additional compensation the claimants are entitled to?
- (iii) What order and award ?

7. My findings to the above issues are as under with the reasons to follow.

- 1. In the Affirmative.
- 2. As per findings.
- 3. As per the final order.

8. My reasons for findings of the points for determination are discussed hereinafter.

:: R E A S O N S ::

Issue No.1 and Issue No.2 :-

9. Issue nos.1 and 2 are being inter-connected, inseparable and indivisible from each other, it would be convenient to dealt with both the issues together.

To prove the additional claim for the acquired land, claimant have produced village form No. 7/12 of Survey No. 851/A/4 vide Exh-11 and on the perusal of the same the name of the possessor is mentioned Shivsinh but as mentioned earlier at the time of filing of land reference case the claimant Jagatsinh was minor and hence now he become the claimant and hence it is proved that the applicant is the owner and in possession of the acquired land. Further, on perusal of the same it is mentioned that the applicant have total 3946 sq.mtr. land and out of which 300 sq.mtr land was acquired by the Opponent No. 1 and later on further land was acquired by the Opponent No. 1 and out of 3946 sq.mtr land 1560 sq.mtr land was acquired by the Opponent No. 1. Further, the applicant has filed his deposition vide Exh-15 in which the applicant has stated that revenue survey No. 851/4 paiki 1560 sq.mtr land was acquired by the ONGC and the Opponent No. 1 has passed award and given compensation of Rs. 1.25/- per sq.mtr for one year which

was received by the applicant with objection and being aggrieved and dissatisfied they have demanded Rs. 25/- per sq.mtr. The opponents have not cross examined the applicant.

10. In the present case on hand the land acquired is on temporary basis and hence to prove the present reference case it is necessary to see Section 35 which reproduced as under:

SECTION-35:- TEMPORARY OCCUPATION OF WASTE OR ARABLE LAND PROCEDURE WHEN DIFFERENCE AS TO COMPENSATION EXISTS. -

(1) Subject to the provisions of Part-VII of this Act, whenever it appears to the [appropriate Government] that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a company, the appropriate Government may direct the Collector to procure the occupation and use of the same for such terms as it shall think fit, not exceeding three years from commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof, for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court.

11. Reading the aforesaid provisions, it is clear that temporary acquisition is permissible for a period of three years only. At the time of acquiring the land for a period of three years as envisaged under section-35 of the Act, it is open to the applicants to ask for reference under section-35(3) of the Act. Looking to the scheme of the Act, it is clear that beyond three years, the provision of Section-35 is not applicable. On the expiration of the term of temporary acquisition of three years, so far as the Collector is concerned, his duties are prescribed in Sections-36(2) and 37 of the Act. The matter of compensation is contained in Section-35(1) of the Act. In such reference, therefore, the Court is required to give its decision in relation to the difference as to the sufficiency of compensation only of maximum period of three years and not beyond that even when the reference is made within stipulated period. Further, it has been held by the Hon'ble High Court of Gujarat in FA No. 3136 of 2006 with FA No. 3137/2006, that while dealing with an application u/s. 35(3) of the Act, the reference Court is not empowered to pass an order in respect of future rent.

It is an undisputed facts that the land of 1560 sq.mtr of applicant was acquired by the opponents and the applicant has stated in his deposition that his land was very fertile and there is a facility of irrigation and bore-well in his land and they have taken two to three crops in year from which they have earning handsome amount. The applicant has further stated that the

facility of water, electricity, school, hospital, transportation and pakka road etc. available in their village and there is a national highway passed near their village. Further, the applicant has relied upon the order passed in LAR No. 1296/1993 wherein the Court has awarded the compensation of Rs. 15/- per sq.mtr for the land situated at village Pingdaj in which the applicant have preferred an appeal before Hon'ble Gujarat High Court which is pending and the distance between the Radhu village and Pingdaj is around 12 km.

12. I have gone through the record of the case and on perusal of the same it is pertinent to note that the claimant have stated that they are taking two to three crops during the year by which they earned around Rs. 50,000/- to 60,000/- per year but the claimant have not produced any bill to prove that they are earning around Rs. 50,000/- to 60,000/- per year. Further, the claimant have stated that they have the facility of irrigation and bore-well in their land but to prove the same they have not produced any document and hence the same cannot be believed true. Further, the claimant have relied upon the order passed in LAR No. 1296/1993 but the appeal has been preferred in the said LAR before Hon'ble Gujarat High Court which is pending and the distance between Radhu village and Pingdaj village is around 12 to 13 km and Pingdaj village is near to Bareja which is a well developed industrial area and hence the same is not very much relevant to the present case. It is an undisputed facts that the Radhu and Pingdaj village both are from Matar Taluka

but Pingdaj village is near to Bareja and the Bareja is a well developed industrial area. Further, the land acquired in Pingdaj village is acquired for permanent basis while the land acquired in the present case is on temporary basis and hence both the case are different but looking to the fertility of the acquired land and the facts and circumstances described by the claimant it is clearly established that the amount compensation awarded by Land Acquisition Officer is inadequate and required to be pay additional compensation to the claimant.

13. As discussed above it is proved that the claimant has been awarded not adequate compensation in terms of money and it has been determined by this Court that the claimant is entitled to get additional compensation at the rate of Rs.8.75 ps per sq.mt. In view of above discussion of issue No. 1 and 2 and relying on the facts and circumstances of the case, the plaintiff has succeeded to prove the facts of suit by producing oral as well as documentary evidence as discussed above and hence, I answer the Issue No.3 and pass following order in the interest of justice.

:: F I N A L O R D E R ::

1. The present Land Reference Case is partly allowed.
2. The applicant is entitled for additional amount of compensation by way of rent of their acquired land in

L.A.Q. Case No.1/2025 at the rate of Rs.8-75ps per sq.mtr per year, over and above the compensation awarded by the Special Land Acquisition Officer, for the period of one years from the date of taking the possession or till the possession handed over to the applicant, whichever is earlier with a clarification that if the acquiring body has paid the excess rental amount for the said period, then decided by this Court, the rental amount paid by the acquired body will be prevailed.

3. The applicant shall be entitled to get interest at the of 9% on the Additional amount of compensation from the date when it became due and till the amount is actually realized.
4. The applicants shall be entitled for proportionate cost and the opponents shall bear their own.
5. Award be drawn accordingly.

Pronounce in the open court today.

Place Kheda

Maheshkumar Chimanlal Patel

Date 23-03-2026

Principal Senior Civil Judge
Kheda

Code No. GJ01199