

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8022 of 2023**

=====

BHOLABHAI RAMJIBHAI PATEL HUF & ORS.

Versus

STATE OF GUJARAT & ORS.

=====

Appearance:

MR PUSHPADATTA VYAS(1296) for the Petitioner(s) No. 1,2

DECEASED LITIGANT for the Respondent(s) No. 10,6

MR SANJAY UDHWANI, ASST.GOVERNMENT PLEADER for the Respondent(s) No. 1,2

MR SK PATEL for MR ADITYA S PATEL(12087) for the Respondent(s) No. 11,12,13,14,5,7,9

MR BS PATEL, SR.ADV. with MR UMANG H OZA(2440) for the Respondent(s) No. 3,4

=====

CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE

SUNITA AGARWAL

and

HONOURABLE MR.JUSTICE D.N.RAY

Date : 22/07/2025

ORAL ORDER

(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. Having heard learned advocate for the petitioners in the present petition, we may note that in order to inquire into the allegations made herein, the records of Special Civil Application No. 9666 of 2019 and Special Civil Application No. 11961 of 2021 have been summoned. We may note that the present petition has been filed by the purchasers of the land in question, namely the Old Revenue Survey No.528/5 (Block No.961), Village Sherkhi, District Vadodara, admeasuring 1-10-29 hectares from the original owners, who are impleaded as respondent Nos.5 to 14 herein, vide registered sale deed

bearing No.9272 dated 15.09.2005. The contention of the petitioners herein is that the petitioners are rightful owners of the land in question to whom possession was delivered with the registration of the sale deed in the office of the Sub-Registrar, Vadodara-Gorwa.

2. However, the original owners, namely the respondent Nos.5 to 14 filed a Special Civil Suit No.441 of 2006 challenging the registered sale deed before the Civil Court, Vadodara, which was ultimately dismissed vide judgement and order dated 07.01.2020 passed by the competent Court. There is a categorical statement that there was no interim stay or any relief against the petitioners in the said suit and the title and possession of the petitioners remained undisturbed throughout.
3. The dispute in the present petition is about disbursement of the compensation for acquisition of a portion of the land in question for an area of 0-62-19 sq.meters (Block No.961) (Survey No.528/5 paiki), for the Vadodara-Mumbai Expressway under the National Highways Act, 1956. The contention in the writ petition is that inspite of there being clear ownership with the petitioners herein, taking benefit of the pendency of the Civil Suit, the respondent Nos.3 and 4, who are the subsequent purchasers of a sale deed dated 28.01.2014 (30.01.2014) bearing No.117, have succeeded in getting disbursement of the compensation amount in connivance with the original owners, namely the respondent Nos.5 to 14 herein.
4. The petitioners having come to know about the land

acquisition award in LAQ/Compensation Case No.13/2013 dated 05.09.2017 moved an application seeking for disbursement of compensation and filed a written objection about the claim of the original owners before the respondent authority dated 16.02.2018, which was received in the office of the respondent No.2 herein, namely the Special Land Acquisition Officer, Vadodara on 20.02.2018. It is contended that the details of ownership of the petitioners over the land in question by virtue of the sale deed dated 15.09.2005 was brought before the Special Land Acquisition Officer. However, the Special Land Acquisition Officer had illegally passed an order dated 30.04.2018, behind the back of the petitioners without considering the objections raised by the petitioners dated 16.02.2018, to disburse the compensation amount in favour of the private respondent Nos.3 to 4, to whom no right, title or interest in the land in question by virtue of the sale deed dated 28.01.2014, could accrue.

5. It is further contended that the petitioners herein have also filed a Civil Suit No.67 of 2018 seeking for injunction against the subsequent transferees, namely the respondent Nos.3 and 4 herein, wherein an interim injunction of status quo with respect to the land in question has been passed which is operating as on date. The Civil Suit No.67 of 2018 is pending before the competent Court.
6. It is an admitted fact of the matter that the Special Civil Suit No.441 of 2006 has been dismissed by the

competent Court on 07.01.2020 and a regular First Appeal No.85 of 2021 filed by the original owners is pending before the competent appellate Court.

7. It may further be pertinent to note that after dismissal of the suit of the original owners namely respondent No.5 to 14 herein, it appears, that a notice dated 18.08.2020 was issued by the competent authority, namely the Special Land Acquisition Officer calling upon the respondent Nos. 3 and 4 (the subsequent purchasers) for filing false affidavit, with a further direction to deposit the amount disbursed to them.
8. However it seems that, in the meantime, the respondent Nos.3 and 4 filed a writ petition, namely Special Civil Application No. 11961 of 2021 by impleading the Land Acquisition Officer, National Highway Authority of India, and the Union of India, seeking for benefit of Factor-2, which was disposed of vide judgement and order dated 25.08.2021 along with another writ petition, namely Special Civil Application No. 11960 of 2021, in view of the decision of the Coordinate Bench of this Court dated 23.04.2021 in Special Civil Application No. 5913 of 2021.
9. We may note that in the writ petition filed by the respondent Nos.3 and 4 neither the original owners nor the petitioners herein have been impleaded as party respondents. It is clear that the respondent Nos.3 and 4 have succeeded in getting the order from this Court for grant of benefit of Factor-2 by concealment of material facts about the interim injunction granted by the Civil

court in the Civil Suit No.67 of 2018 and also the dispute pending before the competent authority, namely the Special Land Acquisition Officer with regard to their right to receive compensation under the original award dated 05.09.2017. There is no disclosure therein of the notice dated 18.08.2020 issued to the respondent Nos.3 and 4 in the writ petition filed by them in the year 2021, wherein they have succeeded in getting the order dated 25.08.2021 at the admission stage itself.

10. We may further take note of the averments in the affidavit-in-reply filed on behalf of the respondent Nos.3 and 4 in the present petition. Pertinent is to note that there is no para-wise reply of the writ petition and, as such, the averment made in the Paragraph No.2.6 of the writ petition about the notice dated 18.08.2020 issued to the respondent Nos.3 and 4 remained uncontroverted. We may further note the averments made in the affidavit of the respondent Nos.3 and 4 itself. It is stated therein that the answering respondent Nos.3 and 4 are *bona fide* purchasers and the names of the petitioners have not been mutated in the record of rights and relying upon the revenue entries, the respondent Nos.3 and 4 purchased the land in question vide registered sale deed dated 28.01.2014 on payment of full consideration that too by a cheque. The contention is that the petitioners herein have not disclosed the fact that after execution of the sale deed, the respondent Nos.3 and 4 have been put in possession and they have grown trees over the land in question. It is stated that after getting the possession of

the land in question, the respondent Nos.3 and 4 filed a Special Civil Application No.11961 of 2021 for getting compensation as per the Factor-2 multiplier. The petitioners have, however, not chosen to file any objection before the respondent No.2 authority and in absence of any other claim, the compensation amount was rightly disbursed to the respondent Nos.3 and 4.

11. There is no affidavit-in-reply filed on behalf of the respondents No.5 to 14 herein, who were the original owners of the land in question and have executed sale deed dated 15.09.2005.
12. The learned counsel for the petitioners has invited attention of the Court to Page No.'21' of the paper book to submit that the objections dated 16.02.2018 was submitted before the Special Land Acquisition Officer and the same was received in the said office on 20.02.2018. Inviting attention of the Court to Page No.'24' of the paper book which is the order dated 30.04.2018, it is demonstrated by the learned counsel for the petitioners that it was recorded by the Special Land Acquisition Officer while seeking for disbursement of the compensation amount that the respondent Nos.3 and 4 made a categorical statement that they have been duped by the original owners with the execution of the sale deed of the year 2019. However, it is pertinent to note that there is absolutely no whisper about the objection filed by the petitioners herein dated 16.02.2018 which according to them, was received in the office of the Special Land Acquisition Officer dated 20.02.2018.

13. It is, further surprising to note from the averments in the order dated 30.04.2018 itself that even the factum of filing of the Civil Suit of the year 2006 was duly brought to the knowledge of the Special Land Acquisition Officer and it was noted by him, while noticing the averments made on behalf of the respondent Nos.3 and 4.
14. We fail to comprehend as to how the Special Land Acquisition Officer could have passed an order for disbursement of the compensation amount in favour of the respondents No.3 and 4 despite noticing the factum of a Civil Suit of the year 2006 pending at the relevant point of time. It is more than evident that the order dated 30.04.2018 has been passed behind the back of the petitioners herein and the respondent Nos.3 and 4 have succeeded in getting even enhanced amount under an amended award dated 30.12.2021 by application of Multiplication Factor-2 in the light of the directions contained in the judgement and order dated 25.08.2021 by concealment of material facts.
15. It is further submitted by the learned counsel for the petitioners that with a view to get the process of disbursement of compensation accelerated under the amended award dated 30.12.2021, the respondent Nos.3 and 4 herein have filed a contempt petition before this Court and the enhanced amount had also been disbursed to them, inspite of notice dated 18.08.2020 issued by the Special Land Acquisition Officer calling upon the respondent Nos.3 and 4 to deposit the compensation amount disbursed under the original award.
16. In so far as the original owners are concerned, they have

filed a writ petition, i.e. Special Civil Application No. No.9666 of 2019 with the prayer to set aside the order dated 30.04.2018 on the ground that it is in clear violation of Section 3H(3) and (4) of the National Highways Act, 1956 and have made a mention in the body of said the writ petition about the Special Civil Suit No.441 of 2006, but the petitioners herein against whom the said Civil Suit was filed by the original owners have not been impleaded in the said writ petition, namely Special Civil Application No. 9666 of 2019. It is, thus, evident that the original owners have also not come with clean hands before this Court. The application, namely Civil Application No. 1 of 2019, however, has been filed by the petitioners herein for joining party in the said writ petition which is now allowed.

17. Taking note of the above, we require the learned Assistant Government Pleader appearing for the State respondent to file personal affidavit of the Special Land Acquisition Officer, Vadodara to bring the entire record of the proceedings conducted in the matter of disbursement of compensation under the original award, by passing an order dated 30.04.2018 in favour of the respondent Nos.3 and 4 herein and under the amended award applying Multiplication Factor-2. The record of the proceedings conducted after issuance of the notice dated 18.08.2020 issued to respondent Nos.3 and 4, by the Special Land Acquisition Officer (as per the averments made in Paragraph No.'2.6' of the writ petition) shall also be placed therein.

18. The Special Land Acquisition Officer shall categorically answer to his averments made by the petitioners about the objections dated 16.02.2018 received in the office of the Special Land Acquisition Officer on 20.02.2018 as stated in Paragraph No.'2.3' of the writ petition. In addition to the above, a parawise reply to the writ petition shall be filed by the Special Land Acquisition Officer, to explain as to how the order for disbursement of compensation on two occasions under the original award and the amended award (by applying Factor-2) could have been passed, when there was a dispute with regard to right, title and interest of the persons claiming to be interested in the land in question, contrary to the provisions of Section 3H(3) and (4) of the National Highways Act, 1956.
19. All issues arising herein will be answered after receipt of the response of the Special Land Acquisition Officer. Let this matter be tagged along with the Special Civil Application No. 9666 of 2019. The record of Special Civil Application No.11961 of 2021 decided on 25.08.2021 shall also be placed on the next date fixed.
20. Put up this matter on 12.08.2025.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SUDHIR