

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 8022 of 2023****With****R/SPECIAL CIVIL APPLICATION NO. 9666 of 2019****With****CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 9666 of 2019**=====
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, ASSISTANT GOVERNMENT PLEADER for the
Respondent(s) No. 1,2****MR ADITYA S PATEL(12087) for the Respondent(s) No. 11,12,13,14,5,7,9****Mr. B. S. PATEL, SENIOR ADVOCATE 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 : 16/09/2025****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)**

1. Heard Mr. Pushpadatta Vyas, learned advocate for the petitioners, Mr. Sanjay Udhwani, learned Assistant Government Pleader appearing for the State - respondents and Mr. B. S. Patel, learned Senior Advocate assisted by Mr. Umang H. Oza appearing for the respondent nos. 3 and 4 and perused the record.

2. The above referred two connected writ petitions are

pertaining to a dispute of disbursement of compensation to the rightful owner of the agricultural land bearing Revenue Survey No.528/5 (Block No.961) at Village Sherkhi, District Vadodara (admeasuring 1-10-29 hectares), which was subject matter of the sale deed bearing No.9272 dated 15.09.2005 registered with the office of the Sale Registrar, Vadodara - Gorwa.

Special Civil Application No. 9666 of 2019:-

3. The Writ Petition No.9666 of 2019 was filed by the original owners who had executed a sale deed dated 15.09.2005 to transfer the land in question, with the reliefs prayed as under:-

*A] **YOUR LORDSHIPS** maybe pleased to issue appropriate writ, direction or order and thereby be pleased to quashed and set aside the impugned order dated 30.04.2018 passed by the respondent no.2 as the same is bad, illegal and in clear violation of Section 3(H)(3) and (4) of the National Highways Act, 1956, and further be pleased to direct the respondent to deposit the amount of compensation before the Ld. Civil Court, in the interest of justice.*

*B] **YOUR LORDSHIPS** may be pleased to restrain the respondents, from executing the impugned order, pending the admission, hearing and final disposal of this petition;*

*C] **YOUR LORDSHIPS** maybe pleased to grant such other and further reliefs, as are deemed fit, in the interest of justice;*

4. For the sake of convenience the petitioners of this writ petition are referred as the original owner throughout this judgment.

5. Pertinent is to note that in the writ petition filed by the original owner initially only two private respondents have been impleaded as respondent Nos. 3 and 4, in whose favour the order impugned dated 30.04.2018 had been passed, for disbursement of the compensation determined under the award dated 30.04.2018 declared under Section 3G of the National Highways Act, 1956 (in short referred as "the Act, 1956"). By means of the amendment allowed vide order dated 22.07.2025, however, the transferees of the sale deed dated 15.09.2005 have been brought on record as respondent Nos.5 and 6.1 to 6.5.

6. From a perusal of the averments made in writ petition, it is evident that it was stated that a Special Civil Suit No. 441 of 2006 had been filed against the transferees of the sale deed dated 15.09.2005 on the ground that the agreed amount of sale consideration was not paid to the writ petitioner and that the said suit was pending before the Senior Civil Judge, Vadodara.

7. However, the persons against whom the said suit was filed, were not impleaded initially.

8. Further there is also a reference of Regular Civil Suit No. 69 of 2018 filed by the transferees of the sale deed dated 15.09.2009 against the respondent Nos. 3 and 4 therein seeking for a declaration that the respondent nos. 3 and 4 are not entitled to receive compensation and the provisions of Section 3 (H) (4) of the Act, 1956 have been invoked praying to restrain the respondent authorities from disbursing the compensation to the respondent nos. 3 and 4 therein.

9. From the above, it is evident that Special Civil Application No.9666 of 2019 was not maintainable due to non-joinder of the necessary parties when it was instituted. However, with the subsequent impleadment of the transferees of the sale deed dated 15.09.2005 as respondent Nos.5 and 6.1 to 6.5, we are also required to look to the claims of the said respondents, who are the petitioners in the connected Special Civil Application No.8022 of 2023. For the sake of clarity, it may be noted that the petitioners of the writ petition filed in the year 2023 are respondent Nos.5 and 6.1 to 6.5, who were impleaded in the Special Civil Application

No.9666 of 2019 only in the year 2025 by way of amendment.

Special Civil Application No. 8022 of 2023:-

10. For the sake of convenience, the petitioner of this writ petition are referred as the petitioners – transferees in the entire judgment.

11. The petitioners of the Special Civil Application No. 8022 of 2023 are claiming that they are the rightful owners of the land in question purchased by them by virtue of the sale deed dated 15.09.2005. It is stated that though the petitioners are the bonafide purchasers of the land in question, but the original owners/transferees filed a Special Civil Suit No. 441 of 2006 seeking cancellation of registered sale deed dated 15.09.2005, which has ultimately been dismissed by the competent Civil Court vide judgment and decree dated 07.01.2020. It is categorically stated in the writ petition that as on date, there is no relief or stay operating against the writ petitioners. The contention in the writ petition is about the claim put forth by the petitioners/transferees in LAQ/Compensation Case No. 13 of 2013 qua disbursement of the amount determined under the land acquisition award with respect to the lands-in-question, wherein it was asserted that

the petitioners came to know about the said award on 05.09.2017.

12. It is also stated that the petitioners/transferees had filed written objections before the Special Land Acquisition Officer, Vadodara, namely the Competent Authority, bringing on record the documents of proof of their ownership namely the sale deed dated 15.09.2005, with the categorical assertion that the compensation should not to be disbursed either to the original owner or to the subsequent transferees of the subsequent sale deed executed by the original owners.

13. It is noted by us in a detailed order dated 22.07.2005 passed in this matter, that, inspite of the objections submitted by the petitioners/transferees in writing on 16.02.2018, no opportunity of hearing was granted to them nor their claim for disbursement of compensation, being the rightful owners of the land-in-question, had been adjudicated while passing the order impugned dated 30.04.2018.

14. Noticing the stand of the petitioners that the order dated 30.04.2018, (which is also the subject matter of challenge in Special Civil Application No.8022 of 2023), was passed by the

Land Acquisition Authority ignoring the written objections filed by the petitioners/transferees, we have called for the specific response of the Special Land Acquisition Officer vide order dated 22.07.2025.

15. It may not be out of place to note, at this juncture, that apart from challenging the order dated 30.04.2018, the petitioners in Special Civil Application No.8022 of 2023 have also challenged the order dated 19.10.2022 whereby their objections against disbursement of the compensation amount determined under Factor-2 award dated 30.12.2021, had also been rejected.

16. In the affidavit dated 11.08.2025, filed by the Special Land Acquisition Officer, Unit - 1, Deputy Collector, Vadodara, in response to our order dated 22.07.2025, it is admitted that the objections filed by the petitioners/transferees being the purchasers of the sale deed dated 15.09.2005, were received in the office of the competent authority, namely the Special Land Acquisition Officer on 20.02.2018. The specific response in the paragraph no. '5' of the affidavit of the officer currently posted as Special Land Acquisition Officer, Unit-1, Deputy Collector, Vadodara, in the affidavit dated 11.08.2025, is

relevant to be noted hereinunder:-

5. At the outset, with regard to the observations made and directions issued in Paragraphs 17 and 18 of the order dated 22.07.2025 by this Hon'ble Court, it is respectfully submitted that the petitioners, on the basis of registered sale deed dated 15.09.2005, raised objections regarding the disbursement of compensation in favour of respondents 3 and 4 vide communication dated 16.02.2018, which was received in the office of the deponent on 20.02.2018. Upon verification of the records available with the office of the deponent, it transpires that, pursuant to the objections so raised by the petitioners, a personal hearing in respect of the same was not scheduled.

As per record, the then Special Land Acquisition Officer (Shri R.P. Joshi), considered the objections dated 18.03.2016, 07.05.2016, and 20.12.2016 raised by the original owners (Respondent Nos. 5 to 14 herein) and personal hearing was given to the said original owners and Respondent Nos. 3 and 4. As is apparent from the consequent order award dated 30.04.2018, it was recorded that the original owners had instituted civil proceedings by way of Special Civil Suit No. 441 of 2006 against the Petitioners for cancellation of sale deed dated 15.09.2005 and Special Civil Suit No. 246 of 2016 against the Respondent Nos. 3 and 4 for cancellation of the sale deed dated 28.01.2014. However, as no stay/injunction order had been passed by the competent court and since the name of the petitioners was not reflected in the revenue records, the compensation was directed to be disbursed in favour of Respondent Nos. 3 and 4.

17. It is, thus, an admitted fact that inspite of the objections raised by the petitioners/transferees herein (writ petitioners in Special Civil Application No. 8022 of 2023), no personal hearing was scheduled. The then Special Land Acquisition Officer had proceeded to pass the order dated 30.04.2018

after considering the objections dated 18.03.2016, 07.05.2016 and 20.12.2016 of the original owners and the respondent nos. 3 and 4, personal hearing was afforded only to the original owners and also to the respondent nos. 3 and 4, who were claiming rights on the basis of the sale deed dated 29/30.01.2014.

18. As it is evident from the record, after receipt of compensation under the award by virtue of the order dated 30.04.2018, the respondent nos. 3 and 4 filed a writ petition in the year 2021 seeking award of Factor-2 multiplication and the judgment and order dated 25.08.2021 passed by this Court therein has led to passing of the Factor-2 award dated 30.12.2021.

19. It is pointed out by Mr. Sanjay Udhwani, learned Assistant Government Pleader appearing for the State - respondents that Factor-2 award was a composite award which was passed in the respect of various landowners, including respondent nos. 3 and 4 herein.

20. It is also an admitted fact that both the original owners and the transferees of the sale deed dated 15.09.2005 had

filed their objections again before the competent authority, raising a dispute about the disbursement of compensation under the Factor-2 award dated 30.12.2021, and the dispute about the rights/ claims of the respondent nos. 3 and 4 to receive compensation for the acquired land. An order dated 19.10.2022 was passed rejecting the objections of the original owners upholding the right of the respondent no. 3 and 4 to receive compensation under the Factor-2 award dated 30.12.2021. It seems that the objections filed by the petitioners were also rejected on 14.11.2022 on the ground of pendency of the civil suit.

21. The record indicates that the respondent nos. 3 and 4 namely, the subsequent purchasers of the sale deed of the year 2014 executed by the original owners, had succeeded in getting disbursement of compensation determined under the Factor-2 award dated 30.12.2021 by filing a contempt petition, wherein a statement had been made on behalf of the Special Land Acquisition Officer/competent authority that the awarded amount had already been disbursed at his ends.

22. The record, thus, reveals that:-

1. The original owner, who was agitating his right to receive compensation under the original award dated 05.09.2017 in LAQ/Compensation Case No. 13 of 2013, has lost in his challenge to the validity of the sale deed dated 15.09.2005 with the dismissal of Special Civil Suit No. 441 of 2006. Though dismissal came later, i.e., on 07.01.2020 under the order passed by the Civil Court, but the said fact had not been brought on record of the writ petition filed in the year 2019 by the original owner. The respondent nos. 3 and 4 namely, the subsequent purchasers though had been impleaded in the said writ petition, but the petitioners/transferees against whom the suit had been filed by the original owner were not been impleaded.

2. At least, it can be held that the original owners had lost their right to seek compensation after dismissal of Special Civil Suit No. 441 of 2006 vide judgment and order dated 07.01.2020 passed by the Civil Court.

23. It is, thus, evident that the original owners filed Special Civil Application No. 9666 of 2019 with incorrect and incomplete facts, and that the said writ petition was not

maintainable, at the outset, on account of non-impleadment of necessary parties. Further, the fact of dismissal of the civil suit has not been brought on the record of the writ proceedings which also leads to the conclusion that the original owners were acting in connivance with the subsequent purchasers namely, the respondent nos. 3 and 4, with a view to ensure that the petitioner who are rightful owners being purchasers under the sale deed dated 15.09.2005, may not be able to agitate their rights to seek compensation. For the first time, in a Civil Application for amendment filed on 21.07.2025, disclosure had been made about the dismissal of Special Civil Suit No. 441 of 2006. A further statement had also been made that the First Appeal No. 85 of 2020 has been filed to challenge the dismissal of the suit, which is pending consideration before the District Court, Vadodara. Pertinent is to note that there is no interim order in favour of the original owners in the pending appeal and no injunction is operating against the purchasers of the sale deed dated 15.09.2005, restraining them from agitating their rights in the land in question.

24. By means of an amendment application, the original

owner also seeks to challenge the order dated 19.10.2022 passed in LAQ/Compensation Dispute No. 28 of 2022 by the competent authority/the Special Land Acquisition Officer, Vadodara, in rejecting his objections against disbursement of the compensation amount under the Factor -2 award in favour of the respondent nos. 3 and 4.

25. Suffice it to say that for any submissions made by Mr. S. K. Patel, learned advocate appearing for the original owner namely, petitioner in Special Civil Application No. 9666 of 2019, on the merits of the judgment and decree dated 07.01.2020, dismissing the Special Civil Suit No. 441 of 2006, we need not to deliberate here.

26. Proceeding further, we may note that the conduct of the original owner as reflected from the record of the writ proceedings before us. The original owner not only filed a Civil Suit for cancellation of the sale deed dated 15.09.2005 on the premise that the sale consideration was not paid to them, but also dealt with the land in question, by execution of the subsequent sale deed dated 29/30.01.2014 in favour of the respondent nos. 3 and 4, which fact was never brought before the Civil Court in the Special Civil Suit No. 441 of 2006 filed

against the transferees. The subsequent purchasers, namely the respondent nos. 3 and 4 herein had not been brought on the record of Special Civil Suit No. 441 of 2006.

27. Further, the original owner had also filed a Special Civil Suit No. 246 of 2016 challenging the subsequent sale deed dated 29/30/31.01.2014 in favour of respondent nos. 3 and 4 on the plea of fraud stating that the sale deed executed after the acquisition is void. The said suit is pending consideration before Civil Court.

28. It is, thus, clear that the original owners had created a web of litigation by initiating proceedings before different courts and executing different sale deeds at different point of time in favour of different persons with respect to same subject land.

29. For the fact that the original owners had not succeeded in their challenge to the first sale deed dated 15.09.2005, it is sufficient to say that they have left with no right, title or interest in the land in question. Unless and until the original owners are able to succeed in the First Appeal filed in the year 2010, they cannot claim any right in the land in question.

Even otherwise, for any claim of the original owner to receive compensation for the acquired land during the pendency of the civil suit, the appropriate course was to seek for the said relief by bringing amendment in the pending Civil Suit No. 441 of 2006. Instead of approaching the Civil Court for seeking appropriate relief, the original owner not only executed a subsequent sale deed in the year 2014, but later indulged in litigation with the subsequent purchasers as well.

30. In any case, for this conduct of the original owners, evident on the face of the record, the writ petition filed by them namely Special Civil Application No. 9666 of 2019 is liable to be dismissed outrightly. We hold that the said writ petition having been filed by concealment of material facts, non-impleadment of the necessary parties from the beginning and for not bringing the fact of the dismissal of the suit before this Court till the year 2025, is liable to be dismissed outrightly. Further for the additional fact that only basis of filing of the said writ petition, i.e. the pendency of Civil Suit namely Special Civil Suit No. 441 of 2006, against the transferees of the sale deed dated 15.09.2005, no more survives.

31. With the above, we dismiss the Special Civil Application No. 9666 of 2019 being a misconceived petition. It is, however, kept open for the petitioners therein, namely the original owners, to seek appropriate relief in the pending First Appeal filed by them against the judgment and decree dated 07.01.2020.

32. Coming to Special Civil Application No. 8022 of 2023, filed by the transferees under the sale deed dated 15.09.2005, suffice it to record that as per the admission made in the affidavit of the Special Land Acquisition Officer, the order dated 30.04.2018 had been passed without granting opportunity of hearing to the said writ petitioners though their objections dated 16.02.2018 were admittedly received in the office of the competent authority on 20.02.2018. For this reason only, the order dated 30.04.2018 passed by the competent authority for disbursement of compensation under the original award dated 05.09.2017 cannot be sustained and is liable to be set aside. The fact remains that the writ petitioners of the Special Civil Application No. 8022 of 2023 who were the transferees of the sale deed dated 05.09.2005

laid their claim before the competent authority on 16.02.2018 agitating their right to receive compensation. It was, thus, incumbent upon the competent authority to consider their objections as well while dealing with the objections of the original owner and the subsequent purchasers namely the respondent nos. 3 and 4 herein. As admittedly, the order dated 30.04.2018 has been passed behind the back of the petitioners herein, disbursement of compensation amount to the subsequent purchasers namely the respondent nos. 3 and 4 becomes a result of an illegal exercise of power by the Special Land Acquisition Officer. For any issue pertaining to the dispute relating to disbursement of compensation, once agitated before the competent authority, the only course open for the competent authority is to take recourse to the provisions of Section 3 H (4) of the Act, 1956. Instead of adopting the lawful course to decide the dispute pertaining to apportionment or disbursement of compensation amongst various claimants, the Special Land Acquisition had conveniently ignored the claim of the rightful claimant, who is the purchaser of the sale deed dated 15.09.2005.

33. We have already noted in the order dated 22.07.2025

passed by us from the reading of the order dated 30.04.2018 passed by the Special Land Acquisition Officer that the factum of pendency of Special Civil Suit No. 441 of 2006 against the objections namely the petitioners/transferees of the sale deed dated 15.09.2005 was brought before him and was very much within his knowledge.

34. It is, thus, evident that the respondent nos. 3 and 4 herein, the subsequent purchasers of the sale deed of the year 2014 had succeeded in getting disbursement of the compensation, in connivance with the competent authority, namely the officer posted as Special Land Acquisition Officer/Unit-1, Deputy Collector, Vadodara, who had passed the order dated 30.04.2018.

35. When this aspect of the matter was pointed out, Mr. Sanjay Udhwani, learned Assistant Government Pleader appearing for the State - respondent would submit that as per his information, a preliminary inquiry has been initiated against the then incumbent, who had passed the order dated 30.04.2018. The result of said inquiry is to be brought before us by means of an affidavit of a competent officer from the office of the Collector, Vadodara.

36. Proceeding further, once we find that the respondent nos. 3 and 4, i.e. the subsequent purchasers of the sale deed of the year 2014, had no right to receive compensation under the order dated 30.04.2018 passed by the Special Land Acquisition Officer/competent authority, in view of the dispute raised by the petitioners/ transferees of the sale deed dated 15.09.2005, the compensation disbursed to them subsequently under the Factor-2 award dated 30.12.2021, would also become a result of an illegal exercise of power by the Special Land Acquisition Officer.

37. As noted by us in the order dated 22.07.2025, the subsequent purchasers had succeeded in getting mandamus in a writ petition filed by them, without impleading the contesting parties, namely the original owner or the previous purchasers namely the petitioners herein. The said writ petition was filed in the year 2021 by impleading the State authorities only, with the simple relief of issuing directions to the Special Land Acquisition Officer to do the needful, for grant of benefit of Factor -2, while giving an impression to the Court by the respondent nos. 3 and 4 herein that they were rightful owner. It

is admitted to the learned advocate appearing for the respondent nos. 3 and 4 that even the factum of pendency of the writ petition, namely Special Civil Application No. 9666 of 2019 before this Court had not been disclosed by the respondent nos. 3 and 4 in the writ petition seeking for Factor-2 award, filed in the year 2021.

38. The result is that the respondent nos. 3 and 4 have succeeded in getting disbursement of compensation determined under the Factor-2 award dated 30.12.2021 by concealment of the material facts of pending disputes before this Court.

39. We, therefore, reach at an irresistible conclusion that the respondent nos. 3 and 4 are not legally entitled to receive compensation under the Factor -2 award dated 30.12.2021.

40. We also find it pertinent to note that even the Special Land Acquisition Officer, the competent authority who had passed the orders dated 19.10.2022 and 14.11.2022 rejecting the objections of the two sets of petitioners herein for disbursement of the Factor-2 award, had erred in ignoring the material facts of the previous orders.

41. Be that as it may, the facts placed on record indicate that the original owners have sold the land in question by subsequent sale deed dated 29/30.01.2014 during the pendency of LAQ/ Compensation Case No. 13 of 2013, much after the acquisition notification issued under the Act, 1956 and vesting of the land in question with the National Highways authority by virtue of Section 3 D of the Act, 1956 under the scheme of the Act, 1956. The vesting of the acquired land with the central government was complete upon the declaration made under Section 3 D of the Act, 1956, which is much prior to the execution of the sale deed in favour of respondent nos. 3 and 4.

42. We, thus, find substance in the submissions of the writ petitioners/transferees that the sale deed executed in favour of the respondent nos. 3 and 4 was actually a got up sale deed. All efforts have been made by the original owner to ensure that the compensation amount is not disbursed to the transferees of the sale deed dated 15.09.2005 and they remain entangled in different litigations before the Courts of law.

43. Taking note of the above facts, we find that with the setting aside of the order dated 30.04.2018, respondent nos. 3 and 4 herein are required to refund the entire compensation received by them under the original award dated 05.09.2017 in LAQ/Compensation Case No. 13 of 2013. The additional compensation received by them under the Factor- 2 award dated 30.12.2021 is also required to be refunded, which shall have to be deposited back with the competent authority. On the request made by Mr. B. S. Patel, the learned Senior Counsel appearing for the respondent nos. 3 and 4 herein, we grant some time to said respondents to make a statement for deposit of the aforesaid amount.

44. It is also pertinent to note that Special Civil Suit No. 67 of 2018 has been filed by the petitioners herein against the subsequent purchasers, namely the respondent nos. 3 and 4 herein, seeking relief of injunction, wherein an interim injunction of status quo with respect to the land in question has been passed, which is stated to be operating as on date. We, therefore, leave it open to the parties to agitate their rights in the pending Civil Suit, namely Special Civil Suit No. 67 of 2018.

45. It goes without saying that it would be open for the respondent nos. 3 and 4 herein to agitate their rights which shall have to be adjudicated by the Civil Court independently without being influenced by any of the observations made hereinabove.

46. With the above, for the limited purpose, i.e. to bring two facts before us, namely, (i) the time period for making the deposits of the compensation amount received illegally by the respondent nos. 3 and 4 under the orders impugned; and (ii) the office of the Collector to bring the status of the inquiry initiated against the Special Land Acquisition Officer who had passed the order dated 30.04.2018, we post the matter on 07.10.2025 at 12:30 P.M. Let the affidavit of a competent officer from the office of the Collector be filed to bring the result of the inquiry before us.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

VARSHA DESAI