

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 3874 of 2001
With
R/CROSS OBJECTION NO. 105 of 2002
In
R/FIRST APPEAL NO. 3874 of 2001

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SURAT MUNICIPAL CORPORATION
Versus
SAKARLAL BHAGWANDAS & ORS.

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Appearance:

MR KAUSHAL D PANDYA(2905) for the Appellant(s) No. 1
 DECEASED LITIGANT THROUGH LEGAL HEIRS/ REPRESENTATIVES
 for the Defendant(s) No. 2,7.5,7.5.5,7.5.6,7.6
 MS URVASHI PUROHIT, AGP for the Defendant(s) No. 8
 JENIL M SHAH(7840) for the Defendant(s) No.
 1,3,4,5,6,7.1,7.2,7.3,7.4,7.5.1,7.5.2,7.5.3,7.5.4,7.5.5.1,7.5.6.1,7.5.6.2,7.5.7,7.
 6.1,7.6.2,7.6.3

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CORAM:HONOURABLE MR. JUSTICE J. C. DOSHI

Date : 15/04/2026

ORDER

1. Heard learned advocate Mr.Kaushal Pandya for the appellant – Surat Municipal Corporation, learned advocate Mr.Jenil Shah for original claimants, some of whom are expired, however, they are represented by heirs and learned AGP Ms. Purohit for respondent no.8.

2. This First Appeal under section 54 of the Land Acquisition Act (**“the Act”** for short) challenges judgment and awarded passed in Land Reference Case No.32 of 1987 by learned Reference Court, Surat in group of matters consisting of Land Reference Cases No.32 of 1987, 28 of 1987, 30 of 1987, 33 of 1987, 34 of 1987 and 36 of 1987, whereby, learned Reference Court has considered LAR Case No.32 of 1987 as lead matter.

3. Short facts of the case are as under :-

3.1. That original claimants are title holder of immovable property i.e. land ad-measuring 1319.78.50 sq.mtrs. in Ward No.3, Nondh No.2885-D, paiki Plot Nos.1 to 3, Taluka Choryasi, Surat City. Claimants of LAR No.32 of 1987 are owners of the property and rest of claimants of other Reference Case were tenants of the property. Land was acquired for commercial development in Surat City by Surat Municipal Corporation through State Government. Meanwhile litigation being Case No.1410 of 1983 was preferred before this Court. Later on, it was decided to permit Surat Municipal Corporation to acquire land and as such possession of land was handed over to State Government and award was declared on 18.09.1986. Pursuant to proceedings undertaken in section 11 of the Act, following section 4 and 11 of the Act, Special Land Acquisition Officer passed award in favour of the claimants to grant Rs.300/- per sq.mtr. as compensation against claim of the claimants to grant Rs.1500/- per sq.mtr. towards compensation. Being aggrieved, claimants made reference to Reference Court under section 18 of the Act. Consequently, reference case were registered as aforesaid. Reference preferred by tenants was allowed to the extent that they were granted Rs.2000/- as full and final settlement towards shifting charges and reference preferred by owner was allowed and granted Rs.1000/- per sq.mtr. towards compensation including compensation already determined by Special Land Acquisition Officer. Being aggrieved, Surat Municipal Corporation has preferred First Appeal. In First Appeal, the claimants have filed Cross Objection to enhance amount of compensation.

4. It is submitted that learned advocate Mr.Pandya for the appellant that Reference Court has determined Rs.1000/- per sq.mtr. Without taking any evidence on record. It is submitted that there is no base for the Reference Court to grant Rs.1000/- per sq.mtr. as compensation to the claimants and in view of that, finding of Reference Court is erroneous and requires to be quashed and set aside.

5. As against aforesaid submission, learned advocate Mr.Shah for the claimants submitted that there is self explanatory evidence at Exh.77 as well as at Exh.79, Dhirajlal Kansara is examined who is retired employee of SMC, wherein, he deposed that acquisition is for commercial purpose; at Exh.80 Architect Engineer and Valuer Chimanlal Gandhi is examined, he has deposed that acquisition is for commercial purpose and it will fetch more value, it is not acquisition for purpose purpose. It is submitted that Surat Municipal Corporation under guise of developing commercial area developed shopping center for getting more profit, this issue has not been considered by Reference Court. It is further submitted that at Exh.95, Rajesh Pandya who was Town Planner has also given deposition but it is ignored by Reference Court. It is submitted that no specific evidence has been considered and thereby Reference Court has committed error. Therefore, it is submitted by learned advocate Mr.Shah to allow Cross Objection.

6. At the outset, I may refer para 14 of the impugned judgment, whereby, Reference Court has decided Rs.1000/- towards compensation, it reads as under :-

“14. Looking to the facts fo the reference, the claimants have proved issue nos.1 and 2. So, they are entitled for solatium and interest. In view of my findings,the present references are required to be partly allowed. The claimants are not able to prove that they are entitled to compensation more than Rs.1,000/- per sq.mtr. The claimants are also entitled to solatium at the rate of 30%. Moreover, the claimants are also entitled to additional market value as per the Hon’ble High Court authority reported in AIR 1990 page 891. In the present case, it is stated that, the possession of the lands has not been taken over by the Land Acquisition Officer. It is also required to be considered for the purpose of additional market value. Thus, the claimants are entitled for 12% increase as additional market value from the date of notification under section 4 of the Land Acquisition Act till the date of award. The possession has been taken over by Land Acquisition Officer and therefore, under section 34 of the said Act, the claimants are entitled to interest at the rate of 9% for the first year and at the rate of 12% for subsequent year till the date of recovery of amount. When the possession will be taken by the LAO. Therefore, the claimants are entitled to interest. The amount was paid by the Land Acquisition Officer and so we have not to pass any order in this regard. We have to consider only the solatium, interest and additional amount.”

7. Though learned advocate Mr.Shah submitted that Reference Court did not take into consideration evidence produced on record, I am of the opinion that this evidence would not be helpful to the claimants. There is no gain saying that Surat Municipal corporation has developed shopping center on the acquired property and sold it to third party. Acquisition was not for public purpose, it was to develop area as commercial area. Litigation before High Court saved into handing over possession of acquired land to Surat Municipal corporation, and therefore, now the issue that whether acquisition is for public purpose or not, would not be of any significance but it can be

noticed that Surat Municipal Corporation has earned something from acquired land. Therefore, according to this Court, granting of Rs.1000/- per sq.mtr. towards compensation is justified. I see no reason to interfere with impugned judgment passed by Reference Court.

8. In view of above, First Appeal as well as Cross Objection are dismissed. Reference Court is directed to release the amount, if any, in favour of the claimants after deducting Court fees. Record and proceedings, if any, be send back to learned Reference Court concerned.

SATISH

(J. C. DOSHI,J)