

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Misc. Appeal No. 1537/2024

Union of India, through Defence Estate Officer Jodhpur (Raj.).

----Appellant

Versus

1. Nisar Khan, R/o Village Banar, Tehsil and District Jodhpur (Deceased) through Legal Representatives:
 - 1/1. Farukh Khan S/o Late Nisar Khan, Aged About 50 Years.
 - 1/2. Altaf Khan S/o Late Nisar Khan, Aged About 48 Years.
 - 1/3. Sabir Khan S/o Late Nisar Khan, Aged About 46 Years.
 - 1/4. Shokat S/o Late Nisar Khan, Aged About 42 Years.
 - 1/5. Liyakat Khan S/o Late Nisar Khan, Aged About 40 Years.
 - 1/6. Mustak Khan S/o Late Nisar Khan, Aged About 35 Years.
 - 1/7. Samim D/o Late Nisar Khan, Aged About 55 Years.
 - 1/8. Nasim D/o Late Nisar Khan, Aged About 52 Years.
 - 1/9. Nurjaha D/o Late Nisar Khan, Aged About 44 Years.
2. Munne Khan, R/o Village Banar, Tehsil and District Jodhpur (Deceased) through Legal Representatives:
 - 2/1. Salim Khan S/o Late Munne Khan, Aged About 26 Years.
 - 2/2. Fayaz Khan S/o Late Munne Khan, Aged About 24 Years.
 - 2/3. Najama Bano D/o Late Munne Khan, Aged About 31 Years.
 - 2/4. Salma Bano D/o Late Munne Khan, Aged About 29 Years.
3. Lal Khan, S/o Ishakh Khan, R/o Village Banar, Tehsil and District Jodhpur (Deceased) through Legal Representative:
 - 3/1. Jetun W/o Late Lal Khan, Aged About 58 Years. R/o Village Banar, Tehsil and District Jodhpur.

- 3/2. Yasin Khan S/o Late Lal Khan, Aged About 58 Years.
R/o Village Banar, Tehsil and District Jodhpur.
- 3/3. Khatija D/o Late Lal Khan, Aged About 38 Years. R/o
Village Banar, Tehsil and District Jodhpur.
- 3/4. Hasina D/o Late Lal Khan, Aged About 36 Years. R/o
Village Banar, Tehsil and District Jodhpur.
- 3/5. Farida D/o Late Lal Khan, Aged About 34 Years. R/o
Village Banar, Tehsil and District Jodhpur.
- 3/6. Rasida D/o Late Lal Khan, Aged About 32 Years. R/o
Village Banar, Tehsil and District Jodhpur.
- 3/7. Firdos D/o Late Lal Khan, Aged About 30 Years. R/o
Village Banar, Tehsil and District Jodhpur.
- 3/8. Mumtaj D/o Late Lal Khan, Aged About 28 Years. R/
o Village Banar, Tehsil and District Jodhpur.
- 3/9. Shukiya D/o Late Lal Khan, Aged About 25 Years. R/
o Village Banar, Tehsil and District Jodhpur.
4. State of Rajasthan, through District Collector, Jodhpur.
5. Land Acquisition Officer, Jodhpur.

-----Respondents

For Appellant(s)	:	Mr. Mahesh Thanvi Mr. Pradeep Dutt, SDO-I, Officer-in-charge, present in person
For Respondent(s)	:	Mr. Satya Prakash Sharma Mr. Girdhari Lal Prajapat

HON'BLE MR. JUSTICE MADAN GOPAL VYAS

Order

21/11/2024

The present appeal is reported to be time barred by 298 days.

2. Heard on application under Section 5 of the Limitation Act.
3. The application under Section 5 of the Limitation Act is not being opposed on behalf of learned counsel for the respondent, therefore, the same is allowed.

4. The delay in filing the appeal is condoned.
5. Heard learned counsel for the parties.
6. Admit.
7. No need to issue notice to respondent No.1 as learned counsel Mr. Satya Prakash Sharma is appearing on behalf of respondent No.1.
8. Issue notice to respondent Nos. 2 to 5, returnable after six weeks.
9. Arguing on the stay application, the learned counsel appearing for the appellant-Union of India submits that the learned Reference Court has wrongly determined the price of the land acquired @ Rs. 3,00,000/- per bigha on the basis of the alleged sale deeds of the residential plots. It is submitted that at the relevant time, the prevailing rate was Rs. 1,75,000/- per bigha and therefore, the appellant-Union of India has rightly acquired the land in question @ Rs. 1,75,000/- per bigha. Further, it is submitted that the respondent whose land was acquired, has already been paid the required amount of the award.
10. Learned counsel appearing for the respondent No.1 opposed the prayer made by learned counsel for the appellant and submits that the learned Reference Court has rightly determined the cost of the land @ Rs. 3,00,000/- per bigha and the present appeal deserves to be rejected.
11. Heard learned counsel for the parties and perused the material available on record.
12. Having regard to the facts and circumstances of the case, this Court deems it appropriate that in case, the appellant-Union of India deposits 50% of the enhanced awarded amount

(Rs. 3,00,000 - Rs. 1,75,000 = Rs. 1,25,000/- per bigha)

along with interest as mentioned in the impugned judgment within a period of two months from today, the effect and operation of the impugned judgment/award dated 28.03.2023 passed by the learned Senior Civil Judge, Jodhpur Metropolitan in Reference Case No.19/2009 (Nisar Khan through LRs & Ors. versus State of Rajasthan & Ors.) shall remain stayed.

13. It is made clear that after deposit of 50% of the enhanced amount by the appellant-Union of India, the same may be disbursed to the respondent No.1 forthwith, with an undertaking that in case, the appellant succeeds in the present appeal, he/she/they shall repay the same to the appellant-Union of India alongwith interest.

14. Accordingly, the stay application is disposed of.

(MADAN GOPAL VYAS),J