

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.6788-6877 OF 2002

DY. COLLECTOR LAQ & REHABILITATION

.....APPELLANT

VERSUS

PATEL PUNJABHAI KUSHALBHAI & ORS.

.....RESPONDENTS

O R D E R

These appeals are directed against order dated 23.6.1998 by which the Division Bench of the Gujarat High Court dismissed the first appeals filed by the appellants under Section 54 of the Land Acquisition Act, 1894 (for short 'the Act') for setting aside the award passed by the Reference Court under Section 18 of the Act.

The lands of the respondents were acquired for works incidental to Guhai Reservoir Project. For this purpose, notification under Section 4(1) of the Act was published on 31.1.1985. The possession of the acquired lands was taken on 21.1.1987. On the same day, the Land Acquisition Collector passed award for payment of compensation to the respondents by fixing market value of the acquired land and super structures @ Rs.2/- per square meter. He also awarded 30% solatium on the market value, 12% increase on the cost of land from the date of notification under Section 4(1) and interest @ 9% per annum for the first year and 12% per annum for the subsequent years.

The respondents filed reference applications under Section 18 of the Act and claimed compensation @ Rs.100/- per square meter for the land and Rs.700/- per square meter for the super structures. By an order dated 15.3.1997, the Reference Court

determined the market value of the land etc. @ Rs.10/- per square meter and also granted an increase by 23% for the super structures.

While dealing with the appeals preferred under Section 54 of the Act, the Division Bench of the High Court noted that learned counsel appearing for the appellant did not seriously press the challenge to the valuation of land by the Reference Court and held that there was no valid ground or justification to upset the award made by the Reference Court.

Paragraphs 4 to 6 of the impugned order, which are reflective of the consideration of the appellants' challenge to the award insofar as the super structures are concerned, read as under:-

"4. It is for this reason that learned counsel for the appellant has mainly sought to urge that the Reference Court has erred in determining the market value of super structures for the purpose of computing the total compensation awardable to the claimants.

5. In this context learned counsel for the appellant urged that there is no reliable evidence upon which the Reference Court has determined such compensation.

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6. However, when we examine this contention in the light of the facts and evidence on record, we find that this contention is not sustainable. In this context the value of the super structures has been arrived at by reasonable appreciation of the oral and documentary evidence on record which includes expert evidence of a Valuer's Report. It is a mere coincidence that the determination of compensation on the basis of such evidence as adduced by the Reference Court happens to be a figure which is 23% higher the rate for superstructures offered by the Land Acquisition Officer in his award. This is really not material or relevant. It was sufficient on the part of the Reference Court to observe that in view of the proved facts and evidence on record, the appropriate valuation for the superstructures would be at the rate of Rs.10/- per square meter. To what extent this valuation is more than the valuation determined by the Land Acquisition Officer, is, to our mind, irrelevant. Learned counsel for the appellant is, therefore, not justified in trying to make an arguable point out of this fact situation by suggesting that there was no justifiable reasons on the part of the Reference Court to grant an increment of 23% over the valuation arrived at by the Land Acquisition Officer. In fact on the facts and evidence on record, as reflected in the judgment, and on a careful perusal of the judgment, we find that the reference court has not arrived at the valuation for the superstructures by granting an increment over the

valuation offered by the Land Acquisition Officer. The Reference Court has in fact arrived at its own valuation for the superstructures based on the evidence on record, and then merely, casually and in our opinion, unnecessarily mentioned that it amounts to an increment of 23% over the officer made by the Land Acquisition Officer in his award under Section 11 of the said Act."

We have heard Mrs.Hemantika Wahi, learned counsel for the appellant and carefully perused the record. In our opinion, the impugned order does not suffer from any legal infirmity and there is no warrant for interference with the paltry compensation awarded to the respondents by the Reference Court.

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In the result, the appeals are dismissed. However, there shall be no order as to costs because respondents have not appeared to contest the appeals.

.....J.
(G.S.SINGHVI)

.....J.
(C.K.PRASAD)

NEW DELHI;
FEBRUARY 17, 2010.

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ITEM NO.109

COURT NO.12

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6788-6877 OF 2002

DY. COLLECTOR LAQ & REHABILITATION

Appellant (s)

VERSUS

PATEL PUNJABHAI KUSHALBHAI & ORS.

Respondent(s)

Date: 17/02/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE C.K. PRASAD

For Appellant(s)

Ms. Hemantika Wahi,Adv.
Mr.Boboy,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

The appeals are dismissed in terms of the signed order.

However, there shall be no order as to costs because respondents
have not appeared to contest the appeals.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)