

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). 5078 OF 2004

EXECUTIVE ENGINEER, GUJARAT Appellant (s)

VERSUS

JAWANSING RATANSING(D)THR.LRS.& ORS. Respondent(s)

(With office report )

WITH Civil Appeal NO. 5079-5083 of 2004  
(With office report)

Date: 16/09/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA  
HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)

Ms. Hemantika Wahi,Adv.  
Ms. Renuka, Adv.  
Mr. Rahul Sateeja, Adv.  
Ms. Nupur K. Adv.

For Respondent(s)

Mr. Nikhil Goel, Adv.  
Ms. Sheela Goel,Adv.  
Mr. Naveen Goel, Adv.  
Mr. Marsook Bafaki, Adv.

Mrs K.Sharda Devi ,Adv  
Ms. Sumita Hazarika ,Adv

Mr. Anand Vardhan Sharma, Adv.  
Mr. A. M. Pathan, Adv.  
Mr. V.S. Pandey, Adv.  
Ms. Anil Katiyar, Adv.

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

The appeals are dismissed in terms of the Signed Order.

(NEELAM GULATI)  
Sr. P.A.

(RENU DIWAN)  
COURT MASTER

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

EXECUTIVE ENGINEER, GUJARAT

Appellant (s)

VERSUS

JAWANSING RATANSING(D)THR.LRS.& ORS.

Respondent(s)

WITH

Civil Appeal NO. 5079-5083 of 2004

O R D E R

All these appeals deal with similar facts and issues and therefore we propose to dispose of all these appeals by this common judgment and order. In all these appeals, the Public Health Works Division of Gujarat Water Supply and Sewerage Board is the appellant.

Being aggrieved by the judgment and order passed by the High Court, affirming the award passed by the reference court and determining the market value of the land acquired by the State at Rs.35 per Sq. M., these appeals were filed. By issuing two Notifications dated 30.5.1985 and 30.8.1986 land of the

:2:

respondents situated at village Motipura and Piplodi were acquired for public purpose for locating a disposal site of Himatnagar Underground Sewerage Scheme. After the aforesaid acquisition of the land, the Land Acquisition Officer passed an award determining the market value of the land by classifying them into two categories namely agricultural land at Rs.1.10 paisa per Sq. M. whereas for the waste land, the Land Acquisition Officer fixed the market value at 0.01 paisa per sq.m.

Being aggrieved by the aforesaid award passed by the Land Acquisition Officer, the claimants/respondents filed Reference Petition before the Land Acquisition Officer on the basis of

which their matters were referred to the reference court. The reference court received the evidence adduced by the respondents/claimants in the nature of both documentary and oral evidence and on completion of the proceedings determined the market value of the land by enhancing it to Rs.35 per sq. m. for the entire land. An appeal was filed by the executive engineer namely the appellant before the High Court under Section 54 of the Land Acquisition Act (in short the 'Act') and the said appeal was dismissed under the impugned judgment and order.

We have heard the learned counsel appearing for the parties. In all these appeals contentions of the counsel, :3:

appearing for the State as also for the Board, are that the land acquired was waste land and also underdeveloped and the same was not at all comparable with that of the land in Exhibit 20, which was held illegally to be exemplary land by the reference court and also by the High Court. It is also pointed out that the said land was sold on 11.5.1988 which is three years after the acquisition and, therefore, according to the counsel the same could not have been relied upon for the purpose of determining the market value of the land in question. During the course of evidence a site map was also referred to and relied upon, being an Exhibit. We have perused the said map also in order to ascertain the status of the acquired land.

On going through the evidence that is available on record, we find that the land covered by Exh.20 is definitely better quality of land and that the said sale deed was also executed three years after the due execution of the present land. By the said Exhibit 20, land was acquired at the rate of Rs.65 per Sq.

M. Since the said land is a better quality land, the reference court brought down the value of the same by substantial amount i.e. about 45% while determining the compensation of the acquired land at Rs.35 per Sq. M. A part of the acquired land was located within Motipura wherein there are number of other establishments like Govt. staff quarters, residential societies

and even the railway station is located.  
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DSP's office and civil

hospital could be located within about 2 to 3 kms. of radius

from the acquired land. Therefore, although the land covered by

the acquired land might not have been as developed as the land

covered by Exh. 20, yet the said land has potential value, and,

therefore, the market value determined by the reference court

and upheld by the High court at Rs. 35 per sq. m. does not

appear to us to be on the higher side.

The aforesaid rate which

is fixed by the reference court and upheld by the High Court for

the acquired land is found to be just, proper and reasonable.

We, therefore, find no reason to interfere with the judgment of

the High Court which affirmed the award of the reference court.

It is needless to state that the respondents/claimants shall be

entitled to statutory benefits as provided for under Sections

23,28 and 34 of the Act in accordance with law.

The appeals stand dismissed in terms of the aforesaid  
order.

.....J  
(Dr. MUKUNDAKAM SHARMA)

.....J  
(ANIL R. DAVE)

NEW DELHI,  
September 16, 2010