

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).2652/2009

(From the judgement and order dated 21.04.2008/01.05.2008 in FA  
No.2394/2004 of The HIGH COURT OF GUJARAT AT AHMEDABAD)

GUJARAT INDUST.DEV.CORP. Petitioner(s)

VERSUS

CHHOTABHAI JASANGHBHAI PATEL(D)THR.LRS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned  
Judgment and permission to file rejoinder affidavit and with  
prayer for interim relief and office report)

WITH

SLP(C) NO. 4149 of 2009

(With appln(s) for exemption from filing c/c of the impugned  
Judgment and permission to file rejoinder affidavit and office  
report)

SLP(C) NO. 4150 of 2009

(With appln(s) for exemption from filing c/c of the impugned  
Judgment and permission to file rejoinder affidavit and office  
report)

SLP(C) NO. 4148 of 2009

(With appln(s) for exemption from filing c/c of the impugned  
Judgment and permission to file rejoinder affidavit and office  
report)

SLP(C) NO. 3235 of 2009

(With appln.(s) for permission to file rejoinder affidavit and  
permission to raise additional question of law and office report)

SLP(C) NO. 11464 of 2009

(With appln.(s) for permission to file rejoinder affidavit and  
exemption from filing c/c of the impugned order and office  
report)

SLP(C) NO. 22847-22848 of 2009

(With appln.(s) for exemption from filing O.T. and directions and  
permission to place addl.documents on record and permission to  
file rejoinder affidavit and with prayer for interim relief and  
office report)

SLP(C) NO. 22927-22928 of 2009

(With appln.(s) for exemption from filing O.T. and permission to  
place addl.documents on record and permission to file  
addl.documents and with prayer for interim relief and office  
report)

SLP(C) NO. 24381-24382 of 2009

(With appln.(s) for permission to place addl.documents on record

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and with prayer for interim relief and office report)

SLP(C) NO. 25709-25710 of 2009

(With appln.(s) for permission and office report)

SLP(C) NO. 36633-36635 of 2009

(With appln.(s) for permission and exemption from filing c/c of  
the impugned order and office report)

Date: 08/11/2011 These Petitions were called on for hearing  
today.

CORAM : HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s)  
(For GIDC in SLP(C) Mr. Anip Sachthey, Adv.  
2652/09, 4149/09, Mr. Mohit Paul, Adv.  
4150/09, 4148/09, Ms. Shagun Matta, Adv.  
3235/09 & 11464/09 &  
For RR in SLP(C)Nos.  
22847-22848/09,  
22927-22928/09 &  
24381-24382/2009

In SLP(C)22927-28/09, Mr.K.V. Sreekumar, Adv.  
24381-24382/09,  
25709-25710/09 &  
36633-36635/2009 &  
for RR in SLP(C)  
2652/09, 4149/09,  
4150/09 & 4148/09

In SLP(C)22847-848/09 Mr. Vimal Chandra S. Dave, Adv.  
& for RR in Mrs.Neelam Kalsi, Adv.  
SLP(C)3235/09 Ms.Neha Verma, Adv.  
Mr.S.N.Singh, Adv.

For Respondent(s) Mr.Sanjay Kapur, Adv.  
  
Ms.Jesal, Adv.  
Ms.Hemantika Wahi, A.O.R. (Not Present)

UPON hearing counsel the Court made the following

O R D E R

These petitions are directed against judgment dated

01.05.2008 of the Division Bench of the Gujarat High Court

whereby the appeals filed by Gujarat Industrial  
Development Corporation (for short, 'the Corporation') and

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the cross objections filed by the landowners in the matter of  
determination of compensation by 3rd Joint Civil Judge,  
(Senior Division), Vadodara (hereinafter described as, 'the  
Reference Court') were disposed of by fixing market value of  
the acquired land at the rate of Rs.65/- per square meter.

On a requisition sent by the Corporation, the State  
Government initiated proceedings for the acquisition of  
32,00,000 square meters land in village Manjusar, Taluka  
Savli, District Vadodara for construction of industrial  
colony by the Corporation. Notification under Section 4(1) of  
the Land Acquisition was issued on 8.4.1992. After some  
corrections, the same was finally published in the Official  
Gazette dated 8.10.1992.

After finalisation of the acquisition proceedings, the Special Land Acquisition Officer passed consent award dated 31.3.1995 in respect of 29,12,468 square meters of different types of land. In terms of that award, the landowners agreed to accept compensation at the rate of Rs.10.75 and Rs.17.30 per square meter including statutory benefits under Section 23(1A) and 23(2). In respect of the balance land measuring 2,87,532 square meters, the Special Land Acquisition Officer passed award dated 4.5.1995 whereby he fixed market value of the acquired land at the rate of Rs.9/- and Rs.11/- per square meter.

On a reference made by the Collector under Section 18, the Reference Court, after considering the pleadings of the parties and evidence produced by them declared that the landowners are entitled to compensation at an average rate of Rs.108.78 per square meter.

The Corporation challenged the award of the Reference Court by filing appeals under Section 54 of the Act. On being noticed by the High Court, the landowners filed cross objections. Some of them also filed independent appeals under Section 54 and claimed further enhancement in the amount of compensation.

The High Court re-evaluated the evidence produced by the parties and held that the landowners are entitled to compensation at the rate of Rs.65/- per square meter with other statutory benefits. In arriving at this conclusion, the High Court mainly relied upon two sale instances Exhibits 174 and 175 and applied 40% cut towards development cost.

We have heard learned counsel for the parties and carefully perused the record.

At the outset we deem it proper to mention that the special leave petitions filed by the landowners for enhancement of compensation determined by the High Court were dismissed on 18.09.2009 and notice was issued only on the

issue of value of trees. This is evident from order dated  
18.9.2009 passed in SLP(C) Nos.22847-22848 of 2009 and  
connected matters.

Shri Anip Sachthey, learned counsel for the  
Corporation vehemently argued that the Reference Court and  
the High Court committed serious error by relying upon sale  
instances Exhibits 174 and 175 ignoring that they were in  
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respect of small parcels of land measuring 6400 square meters  
and 1821 square meters and the same could not be made basis  
for determination of market value of large tract of land  
measuring 2,87,532 square meters. In support of this  
submission, the learned counsel relied upon the judgment of  
this Court in Gulzara Singh and others vs. State of Punjab  
and others (1993) 4 SCC 245. Learned counsel further argued  
that the two sale instances were between the two commercial  
entities and, therefore, the Reference Court ought not to  
have relied upon the same ignoring the various sale instances  
referred to in the award passed by the Special Land  
Acquisition Officer and the fact that some of the landowners  
had purchased the land in the year 1992 at the rate of less  
than Rs.10/- per square meter.

Learned counsel for the landowners argued that the  
determination of the value of trees is contrary to the  
evidence produced by them before the Reference Court and,  
therefore, the same should be enhanced. They also submitted  
that even though the special leave petitions filed by their  
clients for further enhancement of compensation were  
dismissed at the threshold, the Court should leave the  
question open because they have filed petition for review of  
order dated 18.9.2009.

In paragraph 12.1 to 12.5 of the impugned judgment,  
the Division Bench of the High Court has given detailed  
reasons for not relying upon sale deeds dated 3.8.1991 and  
21.10.1991 vide which one of the landowners, namely,

Prafulbhai M. Patel had purchased Block Nos. 1786 and 1794 for Rs.9.50 and Rs.9.79 per square meter from Bhogilal Jethalal Shah and Rasiklal Jethalal Shah. The thrust of the reasons assigned by the High Court for discarding the two sale transactions was that the vendors had sold the land in panic.

The High Court then adverted to Exhibit 174 dated 2.6.1992 vide which land measuring 6400 square meters was sold at the rate of Rs.83/- per square meter and Exhibit 174 dated 2.4.1992 vide which land measuring 1821 square meters was sold at the rate of Rs.134.56 per square meter and held that the same could be relied upon for the purpose of fixing market value. In abstract, the argument of Shri Sachthey that transactions involving sale of small parcels of land cannot be made basis for fixing market value of large tract of land is appealing, but on a closer scrutiny, we are convinced that the High Court did not commit any error by relying upon the two sale instances. In paragraph 13.1 to 13.8, the High Court has considered this issue at length, referred to various judgments and held that sale instances of smaller pieces of land could also be relied upon for the purpose of fixing market value after making appropriate deduction. This approach of the High Court is consistent with the judgments in Atma Singh v. State of Haryana (2008) 2 SCC 568, Chaturbhuja Modi v. State of Orissa (2010) 12 SCC 234 and L.A.O. v. M.K. Rafiq Saheb (2011) 7 SCC 714.

We are further of the view that the High Court did not

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commit any error by making 40% deduction from the average price of Exhibits 174 and 175 by observing that this much amount is likely to be spent by the Corporation for construction of roads and drainage, laying of electricity lines and for providing other civic amenities to the colonies to be set up by it.

The question whether the High Court could have ignored

the sale instances relied upon by the Special Land

Acquisition Officer vide which land was sold at a much lower price deserves to be answered in negative. It is settled law

that if several sale instances are available for

determination of market value of the acquired land, the Court

should ordinarily rely upon the sale instance depicting

highest value. In M. Vijayalakshamma Rao Bahadur

Collector (1969) 1 MLJ 45 (SC), State of Punjab v. Hans Raj

(1994) 5 SCC 734 and Anjani Molu Desai v. State of Goa (2010)

13 SCC 710, this Court has repeatedly held that even where

there are several exemplars relating to similar lands,

usually the exemplars depicting highest value will be

considered for fixing market value.

In paragraphs 17 and 18 of the impugned judgment, the High Court has considered the cross objections filed by the landowners and rejected their prayer for fixing higher market value and we do not find any reason to take a different view.

As regards the value of trees, the Reference Court had dealt with the issue at great length and concluded that it

will be appropriate to award Rs.700/- per tree.

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determination made by the Reference Court is well reasoned and no serious argument appears to have been advanced before the High Court on this issue. Therefore, we do not find any reason to increase the value of the trees.

In the result, the special leave petitions are dismissed.

(Satish K.Yadav)  
Court Master

( Om Parkash )  
Court Master