

Spl. LAQ Officer Vs Punabhai Virabhai and Another

Court: Gujarat High Court

Date of Decision: Nov. 20, 2006

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Section 96
 Land Acquisition Act, 1894 â€” Section 18, 4, 4(1), 54, 5A(2)

Hon'ble Judges: J.M. Panchal, J; Abhilasha Kumari, J

Bench: Division Bench

Advocate: Krina P. Calla, A.G.P, for the Appellant; G.M. Amin, for the Respondent

Final Decision: Dismissed

Judgement

J.M. Panchal, J.

These Appeals filed u/s 54 of the Land Acquisition Act, 1894 (ÃˆÃˆ½the ActÃˆÃˆ½ for short), read with Section 96 of the

Code of Civil Procedure, 1908, are directed against the common judgment and award dated March 4, 2003, rendered by the learned Second

Extra Assistant Judge and Special Judge (LAR), Ahmedabad (R) at Navrangpura in Land Acquisition Case No. 416 of 1995 to Land Acquisition

Case No. 418 of 1995, by which the claimants are awarded additional compensation at the rate of Rs. 20/- per sq.mt. for their acquired lands

over and above the compensation paid to them by the Special Land Acquisition Officer at the rate of Rs. 1.50 ps. per sq.mt. for irrigated lands

and Re. 1/- per sq.mt. for non-irrigated lands, by his award dated July 22, 1994.

2. The Executive Engineer, Narmada Yojana, Division No. 3/2, Gandhinagar, proposed to the State Government to acquire the lands of village

Paldi, Taluka: Dholka, District: Ahmedabad, for the public purpose of construction of Narmada Canal. On scrutiny of the said proposal, the State

Government was satisfied that the lands of village Paldi were likely to be needed for the said public purpose. Therefore, a Notification u/s 4(1) of

the Act was issued, which was published in the official gazette on November 14, 1991. The land owners were thereafter served with notices u/s

4(1) of the Act. They opposed the proposed acquisition. After considering their objections, the Special Land Acquisition Officer forwarded his

report to the State Government as contemplated by Section 5A(2) of the Act. On consideration of the said report, the State Government was

satisfied that the lands of village Paldi which were specified in the notification published u/s 4(1) of the Act were needed for the public purpose of

construction of Narmada Canal. Therefore, a declaration u/s 6 of the Act was made which was published in the official gazette on September 22,

1992. The interested persons were thereafter served with notices for determination of compensation payable to them. The claimants appeared

before the Special Land Acquisition Officer and claimed compensation at the rate of Rs. 25/- per sq.mt. However, having regard to the materials

placed before him, the Special Land Acquisition Officer, by his award dated April 22, 1994, offered compensation to the claimants at the rate of

Rs. 1.50 ps. per sq.mt. for irrigated lands and Re.1/- per sq.mt. for non-irrigated lands. The claimants were of the opinion that the offer of

compensation made by the Special Land Acquisition Officer was inadequate. Therefore, they filed applications u/s 18 of the Act requiring the

Special Land Acquisition Officer to refer the matters to the Court for determination of just amount of compensation payable to them. Accordingly,

References were made to the District Court, Ahmedabad (R) where they were registered as Land Acquisition Case No. 416 of 1995 to Land

Acquisition Case No. 418 of 1995.

3. On behalf of the claimants, witness Rukhadbhai Rambhai was examined at Ex.26. After stating that the lands acquired were highly fertile, the

witness claimed that each claimant was earning net income of Rs. 30,000/- to Rs. 40,000/- per year per Vigha from the sale of agricultural

produces such as Millet, Tuver, etc. The witness further stated that the boundaries of his village were touching that of village Pisavada and that the

last survey number of village Pisavada was adjoining to Block number acquired from his village for Narmada Canal. The witness also stated that

the lands of village Pisavada and the lands of his village, which were acquired, were similar in all respects including the fertility. The witness further

mentioned that the claimants were able to grow some crops on the lands acquired as were being raised on the lands of village Pisavada which were

acquired previously. In support of claim of the claimants for enhanced compensation, the witness produced previous award of the Reference Court

relating to the lands of village Pisavada at Ex.19. According to this witness, village Paldi was situated at a distance of two kilometers from Dholka-

Bhavnagar Highway and was fully developed.

4. This witness was cross-examined on behalf of the appellant but nothing substantial could be elicited nor the claim made by the witness that the

lands which were acquired from village Pisavada and the the lands which were acquired in the instant case were similar in all respects could be

demonstrated to be untrue.

5. It may be mentioned that no witness was examined by the appellant to refute the claim advanced by the witness for the claimants but some

documents such as award of the Special Land Acquisition Officer rendered in the instant case against which References were sought was

produced at Ex.30, extract from the relevant register indicating the price of the lands sold during the five years was produced at Ex.31, and a copy

of the map was produced at Ex.32.

6. On appreciation of evidence adduced by the parties, the Reference Court was of the opinion that the previous award of the Reference Court

relating to the lands of village Pisavada was a relevant piece of evidence and furnished good guidance for the purpose of determining the market

value of the lands acquired in the instant case. After placing reliance on the said previous award, the Reference Court has awarded additional

amount of compensation at the rate of Rs. 20/- per sq.mt. by common judgment and award dated March 4, 2003, giving rise to these Appeals.

7. This Court has heard Ms.Krina P.Calla, learned Assistant Government Pleader for the appellant and Mr.Gopinath M.Amin, learned Counsel for

the claimants at length and in great detail. This Court has also considered the oral as well as documentary evidence adduced by the parties before

the Reference Court.

8. The contention that the previous award of the Reference Court relating to the lands of village Pisavada should not have been relied upon by the

Reference Court for the purpose of determining the market value of the lands acquired in the instant case has no substance.

9. From the record of the case, it is evident that in support of their claim for enhanced compensation, the claimants had examined witness

Rukhadbhai Rambhai at Ex.26. Though it was claimed by the said witness that each claimant was earning Rs. 30,000/- to Rs. 40,000/- per year

per Vigha from the sale of agricultural produces, no evidence could be adduced to substantiate the said claim. The record does not indicate that

enhanced compensation was claimed by the claimants either on the yield basis or on the basis of comparable sale instances. What was produced

by the claimants in support of their claim was the previous award of the Reference Court relating to the lands of village Pisavada at Ex.19. Exhibit

19, which is previous award of the Reference Court, indicates that the lands of village Pisavada, Taluka: Dholka, District: Ahmedabad, were

acquired for the public purpose of construction of Narmada Canal pursuant to publication of notification issued u/s 4 of the Act in the official

gazette on November 15, 1991. Therein, the Special Land Acquisition Officer, by his award dated February 22, 1994, had offered compensation

to the claimants at the rate of Re.1/- per sq.mt. Feeling aggrieved by the said offer, References were sought. Accordingly, References were made

to the District Court, Ahmedabad, where they were registered as LAQ Nos. 308 of 1996 to 325 of 1996. The Reference Court, in those cases,

awarded additional compensation to the claimants at the rate of Rs. 20/- per sq.mt. by judgment and award dated August 9, 2002. It is true that in

cross-examination, the witness for the claimants has admitted that the distance between his village and village Pisavada is five kilometers. However,

the suggestion made by the appellant to the said witness that village Pisavada is situated near highway is emphatically denied by the said witness.

Merely because village Pisavada was more developed than village Paldi, the previous award rendered by the Reference Court could not have been

ignored while determining the market value of the lands acquired in the instant case, more particularly, when no evidence worth the name was

adduced by the appellant. By leading cogent and convincing evidence, the claimants established that the lands which were previously acquired from

village Pisavada were similar in all respects to the lands acquired in the instant case whereas no evidence could be adduced by the appellant to

establish that the previous award of the Reference Court was not a relevant piece of evidence for the purpose of determining the market value of

the lands acquired in the instant case. It is well settled that previous award of the Reference Court in respect of similar lands and which has become

final can be taken into consideration for determining the market value of the lands acquired from the adjoining village. Under the circumstances, this

Court is of the opinion that the Reference Court did not commit any error in placing reliance on the previous award of the Reference Court relating

to the lands of village Pisavada for the purpose of determining the market value of the lands acquired in the instant case.

10. On re-appreciation of evidence adduced by the parties before the Reference Court, this Court finds that correct findings of facts have been

recorded by the Reference Court to which settled principles of law have been applied. The learned Assistant Government Pleader could not

convince the Court to take a view different than the one which is taken by the Reference Court and therefore, the Appeals, which have no merits,

deserve to be dismissed.

11. For the foregoing reasons, all the Appeals fail and are dismissed. There shall be no order as to costs. The Registry is directed to draw decree

in terms of this Judgment.