

HIGH COURT OF GUJARAT

**STATE OF GUJARAT
V/S
PANDYA MAHASHANKAR TULJARAM**

Date of Decision: 14 July 2008

Citation: 2008 LawSuit(Guj) 1449

Hon'ble Judges: [K S Jhaveri](#)

Case Type: First Appeal

Case No: 1708 of 1992; 1731 of 1992

Final Decision: Appeal disposed

Advocates: [Sunit Shah](#), [D R Chauhan](#), [Trusha K Patel](#), [Hemant Makwana](#)

Judgement Text:-

K S Jhaveri, J

[1] These appeals Are directed against the common judgment and award passed by the learned Assistant Judge, Sabarkantha at Himmatnagar in Land Acquisition Cases No. 93 of 1986 to 116 of 1986 dated 22.08.1990 whereby, the said References were partly allowed

[2] The facts in brief giving rise to the filing of the present appeals are as under;

2.1 The Special Land Acquisition Officer of the appellant State initiated necessary procedure as prescribed under the provisions of the Land Acquisition Act for acquiring the lands belonging to the respondents situated

in Village Pedhmala, Taluka Himmatnagar, District Sabarkantha. The Special Land Acquisition Officer, vide common award dated 01.02.1985, granted compensation to the claimants @ Rs.100/- for 1 Are of Irrigated land, @ Rs.70/- for 1 Are of Non-irrigated land, @ Rs. 50/- for 1 Are of Slope land and @ Rs.40/- for 1 Are of Washed land having pebbles.

2.2 Being aggrieved by the aforesaid amount of compensation granted by the said Authority, the claimants raised a dispute, which, ultimately, came to be referred to the competent Court by way of References.

2.3 The Reference Court, after hearing the parties and after considering the evidence on record, partly allowed the References. Being aggrieved by the amount awarded by the Reference Court, the appellant State has approached this Court by way of these appeals.

[3] Learned counsel for the appellant State has assailed the judgment and award passed by the Reference Court only to the extent that the Reference Court has committed an error in deducting only 1/3rd of the amount towards cultivation expenses and in applying a multiplier of 15 for determining the amount of compensation.

3.1 Learned counsel has relied upon a decision of the Apex Court in the case of Assistant Commissioner-cum-Land Acquisition Officer, Bellarey v. S. T. Pompanna Setty reported in (2005) 9 S.C.C. 662. In that case, compensation was awarded to the claimants on yield basis. The Court held that the deduction towards cultivation expenses would not be 50% as the land was having fruit-bearing trees which were old and grown-up but, as the claimant had claimed a lower amount, no amount was deducted towards cultivation expenses. The Court also held that when capitalization method for valuation is applied, the proper multiplier is 10 and that a multiplier of 15 is on the higher side. Learned counsel has, therefore, submitted that the impugned award deserves to be modified by deducting 50% amount towards cultivation expenses instead of 1/3rd and a multiplier of 10 is to be applied instead of 15.

3.2 Learned counsel for the appellant has lastly contented that no

compensation is required to be awarded towards the trees standing in the lands. Hence, the impugned award passed by the Reference Court deserves to be modified accordingly.

[4] Heard learned counsel for the appellant State and perused the documents on record. Since none appears on behalf of the respondents claimants, I have not considered those contentions raised by the counsel for the appellant, which have not been raised in the Appeal memo. Therefore, the contention raised by the appellant regarding the payment of compensation towards the trees standing on the lands is rejected at the threshold.

[5] So far as the contention raised by the appellant with respect to cultivation expenses and the multiplier applied is concerned, the Reference Court has given the finding that the lands in question were mainly having the crops of Cotton, Groundnut and Sesum apart from other seasonal crops. Looking to the evidence on record, I am of the view that the assessment made by the Reference Court qua the cultivation of the aforesaid three crops on the lands in question is just and proper. The Reference Court has assessed the valuation of the lands growing Cotton @ Rs.855/- for 1 Are. The said figure was arrived at by computing the cost of Cotton @ Rs.88/- per Kg on the basis of the evidence on record and after deducting 1/3rd amount thereof towards cultivation expenses, the resultant figure was multiplied with 15. In the same manner, the cost of Groundnut and Sesum were assessed at Rs.675/- and Rs.540/- respectively for 1 Are. Thus, the valuation for the three crops, viz. Cotton, Groundnut and Sesum, were assessed at Rs. 855/-, Rs. 675 and Rs. 540/- respectively and the average thereof, would give the market price of the land at Rs. 690/- for 1 Are.

[6] It is a common knowledge that expenditure is involved in raising and harvesting the crops. Keeping in mind the principle laid down by the Apex Court in Assistant Commissioner-cum-Land Acquisition Officer's case (supra), on an average, 50% of the value of the crop realized would be spent towards cultivation expenses. A deduction of 1/3rd, in the circumstances, is improper, in determining the compensation of the land on the basis of yield. Apart from that in cases where compensation is awarded on yield basis, the multiplier of 10 is considered to be proper and appropriate.

[7] In the case on hand, the cultivation expenses have been deducted at 1/3rd of the amount and the multiplier of 15 has been adopted. To that extent, therefore, the submission of the learned counsel for the appellant is well-founded and deserves to be

accepted.

[8] In the above circumstances, for the crop of Cotton, if we deduct 50% of the amount towards cultivation expenses and multiply the resultant figure by a multiplier of 10, then the valuation would come to Rs. 440/- [Rs.88 50% = 44 and Rs.44 X 10 = Rs.440]. In the same way, the valuation for the crops of Groundnut and Sesamum would come to Rs. 340/- and Rs. 270/- respectively. If we take the average of the aforesaid three figures, [440 + 340 + 270] then it would come to Rs. 350/- for 1 Are.

[9] Consequently, the claimants shall be entitled @ Rs.350/- for 1 Are of Irrigated land instead of Rs.500/-, @ Rs.245/- for 1 Are of Non-irrigated land instead of Rs.350/-, @ Rs.175/- for 1 Are of Slope land instead of Rs.250/- and @ Rs.140/- for 1 Are of Washed land having pebbles instead of Rs.200/-, along with Interest, as awarded by the Reference Court. Orders accordingly. The impugned award passed by the Reference Court stands modified to the above extent. The appeals stand disposed of accordingly. No order as to costs. Office is directed to send the R & P, if lying with this Court, to the trial Court concerned forthwith.

