

GUJARAT INDUSTRIAL DEVELOPMENT CORPORATION

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v.

NAROTTAMBHAI MORARBHAI AND ANR.

AUGUST 23, 1996

[K. RAMASWAMY AND G.B. PATTANAİK, JJ.]

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Land Acquisition Act, 1894 : Section 4(1) and 23.

Land Acquisition—Compensation—Determination of—Acquisition of large extent of land for industrial development—Acquired land was waste land but possessed of potential value fit for building purposes and situated in outskirts of industrial city—Compensation awarded by Land Acquisition Officer @ Rs. 5 per sq. mtr.—Reference Court enhanced compensation to Rs. 25 per sq. mtr.—High Court further enhanced compensation to Rs. 33 per sq. mtr.—High Court relying upon a sale deed in respect of lands situated at a distance of 2 kms. from acquired land—Appeal—Held reliance on such a sale deed was unjustified—Courts below were right in taking into consideration potential value of land for determination of compensation—Held in the circumstances of the case reasonable and adequate compensation for acquired land would be Rs. 22 per sq. mtr.—Claimants also held entitled for statutory benefits on the enhanced compensation.

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 11924 and 11934 of 1996.

From the Judgment and Order dated 20.1.95 of the Gujarat High Court in F.A. No. 2319 and 2277 of 1994.

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Harish Salve, Sunil Dogra, A. Roy, S.S. Shroff for the Appellants.

G.L. Sanghi, Ms. Reema Bhandari and M.N. Shroff, for the Respondents.

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The following Order of the Court was delivered :

Delay condoned.

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A Leave granted.

Heard learned counsel on both sides.

B Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the "Act") was last published on April 10, 1989 acquiring a large extent of land admeasuring 8,61,515 sq. mtr. for public purpose, viz., industrial development; the land was at that time fit for cultivation but possessed of potential value and was situated in outskirts of Surat. The Land Acquisition Officer in his award dated April 15, 1991 awarded compensation @ Rs. 5 per sq. mtr. On reference, the extra Assistant Judge
C by his award and decree dated April 19, 1994 enhanced the compensation to Rs. 25 per sq. mtr. On appeal by both the claimants as well as the State, the High Court while dismissing the appeals of the State further enhanced the compensation to Rs. 33 per sq. mtr. Thus these appeals by special leave.

D Though the land was waste land but being possessed of potential value was fit for building purposes and is situated in outskirts of industrial city, the courts below were right in taking into consideration potential value of the land for determination of compensation. In awards for lands notified under Section 4(1) published between December 15, 1986 and
E December 29, 1989, compensation was awarded in the range of Rs. 4.75 per sq. mtr. to Rs. 7 per sq. mtr. In respect of land situated in Ichhapur to an extent of around 908 sq. mtr., the market value was in the range of Rs. 33 per sq. mtr. Relying upon that, the High Court enhanced the compensation. In view of the fact that the lands are situated at a distance
F of two kilometers from the acquired lands, reliance on sale deed, Ex. 22 by the High Court was wholly unjustified in law. It is accordingly excluded. However, we agree that the lands are possessed of potential value, as found by all the courts below.

G No prudent purchaser would purchase large extent of land on the basis of sale of a small extent of land in the open market. The acid test the court should always adopt in determining market value in the matter of compulsory acquisition would be to eschew feats of imagination, sit in the arm chair of a prudent willing purchaser, it should consider whether the willing vendee would offer the rate at which the trial court proposes to
H determine the compensation. Taking these facts into consideration, we are

of the view that the reasonable and adequate compensation for the lands would be at a net rate of Rs. 22 per sq. mtr. after giving deduction of 1/3rd of the amount towards developmental charges. Therefore, the claimants would be entitled to the compensation @ Rs. 22 per sq. mtr. They are also entitled to the statutory benefits on the enhanced compensation. A

The appeals are accordingly allowed. No costs. B

T.N.A.

Appeals allowed.