IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4824 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4857 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4859 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4829 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4835 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4853 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4854 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4855 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4836 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4837 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4850 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4868 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4847 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4861 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4842 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4832 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4846 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4845 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4838 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4834 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4852 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4851 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4862 of 2020
With

R/SPECIAL CIVIL APPLICATION NO. 4860 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4839 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4833 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4830 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4831 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4858 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4840 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4848 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4849 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4844 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4856 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4841 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4828 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4827 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4826 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4825 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 4843 of 2020

==========

BHATHISINH SHIVSINH

Versus

THE DEPUTY COLLECTOR

==========

Appearance:
MR JM BAROT(143) for the Petitioner(s) No. 1
for the Respondent(s) No. 2
MS. MANISHA LUVKUMAR SHAH, GP with MR. DHAWAN JAYSWAL, AGP for the Respondent(s) No. 1

==========

CORAM: **HONOURABLE MR.JUSTICE A.Y. KOGJE**

Date : 11/03/2020

ORAL ORDER

1. These group of petitions under Article-226 and 227 of the Constitution of India are filed for quashing and set and aside the order of the Principal Senior Civil Judge, Danta in Land Acquisition Reference Execution application.

2. As the petitions are filed for the same reasons and the contentions raised in each of them being identical same, are being taken up hearing and disposal jointly at request of both the parties. Facts are narrated from Special Civil Application No.4824 of 2020, which shall govern the disposal of all the petitions.

3. The petition is filed under Article-226 and 227 of the Constitution of India challenging the order dated 19-09-2019 passed by the Principal Senior Civil Judge, Danta in Land Acquisition Reference Execution Application No.196 of 2017.

4. Learned Advocate for the petitioner submitted that learned Judge ought to have considered that, the claimants are demanding the amount as per the award passed by the learned Judge, even as per the award passed in Reference the claimants are entitled for compensation along with the interest as per the award, but the said facts are not considered by the learned Judge and wrongly rejected the execution application and therefore, the said order is required to be quashed and set aside and claimant may be permitted to recover the amount as per the execution application in the interest of justice. Learned Advocate for the petitioner further submitted that learned Judge ought to have considered that, even so far as the other similarly

situated claims are concerned in that case, the amount as per the award which is arise from same notification and land were acquire for the same purpose and the said amount is paid to the claimants and therefore, the present petitioner is also entitled to recover the amount as per the award, but, the said facts are not considered by the learned Judge and wrongly rejected the execution application and therefore, the said order is required to be quashed and set aside and claimant may be permitted to recover the amount as per the execution application in the interest of justice.

5. While passing the order dated 24-02-2020, the Court has observed in Para-3 that learned Advocate for the petitioner has claimed parity with another group of petitions wherein similar set of facts, the orders have been passed. However, today, when the matter is taken up, learned Advocate for the petitioner submitted that there is no another group of petitions, which are having identical facts, wherein the Court has passed any orders. However, reference to the order of passing by the Executing Court, wherein on account of some error in measurement, the compensation amount was enhanced. Only on the basis of increased in the measurement of land acquired.

6. Learned AGP opposed to the petitions and submitted that the proceedings under the provision of Land Acquisition Act, have concluded long back and the due compensation as per the award drawn by the Civil Court, has already been deposited with the Reference Court. It is submitted that State had challenged the award by preferring First Appeal which came to be dismissed by this Court and thereafter, Special Leave to Appeal was filed before the Hon'ble Supreme Court, which also, came to be dismissed and therefore, an award of

compensation declared by the Reference Court has attained the finality and enhanced amount has also been deposited with the trial Court. He draws attention of this Court to the respective Darkhast Numbers in connection with land acquisition reference and submitted that in each of Darkhast, it is recorded that amount has been deposited. It is submitted that therefore the petition is misconceived and cannot be tenable in law.

7. Having considered the rival submissions of the parties and having considered the documents on record, it appears that the Reference Court passed judgment and award in Land Reference Cases Nos.700 of 1987 to 908 of 1987 and Land Reference Cases Nos.910 of 1987 to 917 of 1987, whereby compensation awarded by the Land Reference Officer has been enhanced by the District Judge, Banaskantha in his judgment and award dated 30-04-1994. The State had preferred First Appeal Nos.3186 of 1995 to 3390 of 1995 against such enhancement. However, by order dated 02-04-1999, the Appeals have been dismissed and the judgment and award of the Land Reference Court has been confirmed. Special Leave to Appeal preferred by the State Government being No.4310-4514 of 2005, also came to be rejected by order dated 18-04-2005.

8. With the aforesaid chronology, it is apparent that the land acquisition award of the Reference Court has been confirmed till the Hon'ble Supreme Court. It is therefore, for the State Government to deposit the compensation award in accordance with law. It is pertinent to note at this stage, there is nothing on record to suggest that claimants have filed any proceedings or enhancing the compensation award. Therefore, also, compensation awarded of the Land

Reference Court has attained finality. The Court is inclined to reproduce the findings given by the Civil Court in Execution Application, which are as under:

"In this manner, considering the relevant para of the above mentioned judgment in this case, no such fact appears on verbatim reading of the judgment of Hon'ble Gujarat High Court that Hon'ble Gujarat High Court has increased the rate after changing the market rate, as mentioned in the present application by the applicant. Further, it also does not appear, as stated in the application of the applicant that the Hon'ble Gujarat High Court has changed the rate of one Are of the acquired land after increasing the market rate stated in the order of the Reference Court. In this manner, the facts stated in the affidavit submitted by the applicant with his application are also contradictory to the facts stated in his application, and since the Hon'ble Gujarat High Court has upheld the order of the Reference Court and no such increase or decrease or change has been made at all as stated in the application of the applicant, following order is passed in the interest of justice.

:: Order ::

- The present application of the applicant is rejected.

- No order is passed regarding expenditure."

9. In view of the aforesaid findings, this Court is also of the view that no errors appears to have been committed by the Executing Court while passing the impugned order. The Court does not find any pleadings on record to suggest that any of the petitioners have not received any compensation and that only grievance was with regard to difference in the compensation which in view of the Court, cannot be subject

matter for execution proceedings, more particularly when such compensation award has attained finality till the Hon'ble Supreme Court.

10. Hence, no case is made out for interference. In view of the aforesaid, the petitions stand disposed of.

Direct service is permitted.

(A.Y. KOGJE, J)

PARESH SOMPURA