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Gujarat High Court

Farshubhai M Goklani vs State Of Gujarat Thro Secretary & ... on 27 August, 2014

Author: Akil Kureshi

Bench: Akil Kureshi, J.B.Pardiwala

C/WPPIL/234/2012 ORDER

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WRIT PETITION (PIL) NO. 234 of 2012

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FARSHUBHAI M GOKLANI...Applicant(s)
Versus
STATE OF GUJARAT THRO SECRETARY & 3....Opponent(s)

=====

Appearance:
MR HRIDAY BUCH, ADVOCATE for the Applicant(s) No. 1
GOVERNMENT PLEADER for the Opponent(s) No. 1
MR KEYUR A VYAS, ADVOCATE for the Opponent(s) No. 2
NOTICE SERVED BY DS for the Opponent(s) No. 3 - 4

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CORAM: HONOURABLE MR.JUSTICE AKIL KURESHI
and
HONOURABLE MR.JUSTICE J.B.PARDIWALA

Date : 27/08/2014

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE AKIL KURESHI) The petitioner has brought certain disturbing features of acquisition of land by the respondent No.2, Gujarat Power Corporation Ltd to our notice in this petition. It is pointed out that for setting up a Solar Park, the respondent No.2, which is a Government Company acquired 918 hectares of land at village Charanka, Taluka Sandalpur, Dist: Patan. A part of the land was allotted by the State Government. Rest was acquired from individual land owners under the Land Acquisition Act. The compensation was paid on agreed terms.

The case of the petitioner is that many parcels of these lands were purchased by few individuals shortly before the land was resold to the C/WPPIL/234/2012 ORDER respondent No.2. It is the case of the petitioner that within less than 12 months from the first purchase by such individuals, the land was acquired by the respondent No.2 at a rate which was 20 times more than the rate paid by such individuals. To establish these facts, the petitioner has produced at Annexure I, a chart showing, besides other details, the names of the purchasers, area of the land, date of the sale deed, sale consideration and the compensation paid to such purchasers by respondent No.2 for acquiring the land. We are informed that section 4 notification for acquiring the land was issued on 25.5.2011. The compensation was paid to the land owners on or around 15 th October 2011. In this context, for ready reference, we may reproduce the details contained in the said chart at Annexure I. Sr. Survey Name of the Name of the Area of Date of the Sale Compensati No No. original owner purchaser the land sale deed considerati on . on 1 28 2777274 2 38 3070534 3 39 2794495 4 41 897001 5 42 2627949 6 47 1362806 7 53/1 Jadeja Subjiba Nakrani 15277 12.8.10 100000 2604729 Tapubha, Charanka Kalubhai Jethabhai, Amreli 8 55 1052155 9 57 Harijan Okha Nakrani 15378 100000 3760378 Mangla/ Charnaka Kalubhai Jethabhai, Amreli 10 58 2656390 11 59 Harijan Khana Patel Visatlal 50890 1462010 340000 8676745 Vasta, Charanka Kalidas, Vipul Prahlad Patel from Karli 12 60 Jadeja Sonji Nakrani 16997 12810 100000 2897989 Akheraj, Charanka Kalubhai Jethabhai, Amreli C/WPPIL/234/2012 ORDER 13 61 Harijan Andi Patel Girish 13759 81210 60000 2345908 Karsan Amrutlal Harijan Sambhu Patel Rohit Karamsinh Babulal Harijan Naresh Karamsinh 14 73 3484508 15 90 3449897 16 97 30014821 17 98 Vaghmera Nitish Patel Ambaram 25900 19610 400000 4415950 Kantilal Joitaram 18 100 3794989 19 101 5709704 20 104 5933911 21 105 Jadeja Ranaji Savji, Patel Ambaram 10724 51010 80000 1828443 Charanka Joitaram 22 107 Ramilaben Dhanji Patel Ambaram 36424 300000 62443921 Vhagamsi Joitaram 23 108 Sorathiya Jagdish Patel Ambaram 17099 19610 475000 2932429 Meghji Joitaram 24 109 Sorathiya Jagdish Patel Ambaram 22763 19610 3881262 Meghji Joitaram 25 110 Sorathiya Jagdish Patel Ambaram 45527 19610 7762353 Meghji Joitaram 26 111p1 Sorathiya Jagdish Patel Ambaram 2-9441 19610 5019690 Meghji, (purchased Joitaram from the original owner) 27 113 Jadeja Sonji Patel Ambaram 81949 16810 498000 13972304 Akheraj Joitaram 28 115/1 Jadeja Sajanba Patel Ambaram 40469 16810 495000 6899964 Tapubha Joitaram 29 115/2 34803 16810 5933911 30 119 3381015 31 132 Bhavan Jeram Rupal Mital 0-0607 246201 400841 9763341 Ravaliya Shah 32 139/1 1397247 33 142 72621068 34 143/1 5726924 35 144 3700377 36 151 3881262 37 152/7/1 5519937 38 152/10 Prashant Vishnu Shah Atul 64750 3810 485625 11039825 Doriwala (Rabari Hiralal Sartan Bava from original owner) 39 152/11 11039875 C/WPPIL/234/2012 ORDER 40 152/13 Thakkar Mahesh Vishnu Kumar 64750 08/07/10 453250 11039875 Gokuldas(original Hiralal 31/7/10 481625 owner Rabari Harf Doriwala Dosa and Jaysan Smita Ajith Dosa Sheth 41 152/14/p 7359803 42 152/15 11039875 43 152/16 Koli Panchiben Patel Amrut 32375 2092010 211000 5519937 Motirama Moti at Chagganlal, Charkana Visnagar 44 152/16/p Thakkar Shantilal Patel Jignesh 32375 1712011 200000 5519937 1 Narandas Purshottamdas Hareesh Gopalji 45 152/17 Acharya Hariram Original onwer 64750 872010 453000 11039875 Ganpatram Rabari Haraf Dosa and Jesang Dosa Vishnukumar Harilal Doriwala to Atul Hiralal 46 152/18 Chagga Vaghji Khadi Radaliya 64750 218-2010 200000 5519937 Sandeep Madhubhai, Surat 47 152/20 11039875 48 152/22 Koli Keshavben Patel Ramesh 64750 2182010 200000 5519937 Bechara Maneklal Pandesara Amiben Bechara 49 152/22p Koli Keshavben Patel Piyush 16187 21122010 60000 5759883 1 Bechra 50 152/22/1 Koli Keshavben Patel Rohit 16187 60000 2760054 Bechra Babulal Patel Ashok Jethalal 51 152/23 Rabari Rupaben Gandhii Nitin 16188 24122010 100000 2759883 Rama Dinkar Gandhi Virendra Dinkar 52 152/23p 5519937 53 152/23/2 2760054 54 152/24 Kalaria Rajesh Kalaria Anuben 64750 892011 150000 11039875 Babulal Mithubhai, 480000 Ori. Owner Rabari Rajkot Rana Vela 55 152/25 Chaga Vaga Radalia Sandip 64750 100000 11039875 Madhubhai C/WPPIL/234/2012 ORDER 56 152/26 Nitesh Tribhovan Doshi Amin 64750 3172010 485625 11039875 Patel Vishnubhai Or. owner Rabari Gugakala 57 152/27 11039875 58 152/28 Hirpara Bhagwan 64750 4510 160000 11039875 Vithal 15231 price 59 152/29 11039875 60 152/30 5519937 61 152/30p 5519937 62 152/31 Hirpara Bhagwan 64750 4510 160000 11039875 Vithal (with 15228) 63 152/32 11038875 64 152/33 11039875 65 152/34 Chaga Vaga Radalia Sandip 64750 241109 100000 11039875 Madhubhai 66 152/35 4139910 67 152/35p 6899964 68 152/36 Thakkar Bhailal Patel Sanjay 64750 111010 453000 11039875 Thakarsi Amrutlal 69 152/37 11039875 70 152/38p Nitesh Tribhovan Pravin Hiralal 445-16 3172010 333870 7589975 1 Patel, Visnagar Shah, Ori. Owner Koli Kamalpur Khengar Bhura 71 152/39 Radalia Rajesh Radalia 64750 161110 200000 11039875 Bhikalal (No Rajnikant original owner) Madhubhai 72 152/40 3449803 73 152/43 Manjari Amarabhai Nutenbhai 64750 17610 453250 11039875 Gokalbhai Jagdishbhai Shah 74 152/44 11038875 75 160 6037405 76 165/1 11074316 77 176 Rauma Abdul Patel Vasantlal 12242 19610 60000 2087261 Bachu, Ravabhai, Kalidas Rahimbhai, Vipul Charkana Prahladbhai Patel 78 177 Vijaykaran Rohit 30149 2912011 100000 5140404 Bhiimdan Gadhvi Babubhai Patel, Girish Amrutlal Patel, Ashok Jethabhai C/WPPIL/234/2012 ORDER 79 178 Rauma Manubhai Truptiben 45325 1762010 317275 7727922 Thakkar Kankuben Jivanbhai Pranlal Patel, Visnagar, Shah Atul Hiralal 80 180 4312456 81 181 2139093 82 151/p1 Himatlal G. Pujara Rajiya Khengar 24281 22910 200000 4139910 Vira 83 182 8504199 84 185 Thakkar Kankuben Nitesh 16997 7909 118779 2897988 Prabhuram, Ori. Tribhovandas 120000 Owner Rauma Patel, Amin Kapilaben Chotalal 85 186 Thakkar Kankuben Trupti 28935 17610 202545 4933417 Prabhuram, Or. Jivanbhai Patel Owner Abharam Juma 86 187 Rauma Kuverben Khatri Mukesh 18514 22110 50000 3156637 Sumra Vajeram 87 188 3139416 88 192/1 9559848 89 193 4674769 90 194 Vaviya Khimji 32982 29102010 5623431 Ladha 91 197 Jadeja Alandsang Jignesh 18211 1522011 125000 3104975 Madarsang Purshottam Patel 92 200 10298200 93 202 6382497 94 203 4726430 95 206 Harijan Drabhmanji Patel 200000 5899470 Marknika Vijaykumar Nathalal, Surat 96 212 Ruma Hirbhai Vipul 007993 3122010 60000 1362807 Satyaram Prahladbhai Patel, Unava 97 230 2967041 The comparative data produced by the petitioner makes a startling reading. Several parcels of land were purchased by a few individual owners during the period from January 2010 to February 2011. Majority of these sales took place in the months between June and December 2010.

These lands were	acquired by the	respondent No.2 for which
C/WPPIL/234/2012		ORDER

notification was issued on 25.5.2011 and compensation on agreement was paid on 15.10.2011. The rate of compensation is more than 20 times the sale consideration paid by the purchasers. For example, survey No.53/1 was purchased by one Nakrani Kalubhai Jethabhai on 12.8.2010 for a sum of Rs.1 lac. The said land was acquired by the respondent No.2 by paying compensation of Rs.26,04,729/-. Another survey No.57 was also purchased by the same Nakrani Kalubhai Jethabhai at Rs. 1 lac around the same period for which he received compensation of Rs.37,60,378/-. Patel Ambalal Joitaram, who is the purchaser of several parcels of the land in the area, purchased survey No.105 on 5.10.10 for Rs.80,000/- and received compensation from respondent No.2 of Rs.18,28,443/-. He purchased another land of survey No.107 around the same time for a sum of Rs.3 lacs for which he was compensated by the respondent No.2 by more than Rs.62 lacs. The same Patel Ambalal purchased land bearing survey No.113 on 16.8.2010 for Rs.4,98,000/- and received compensation of Rs.1,39,72,304/- from respondent No.2. One Rohit Babubhai Patel purchased land of survey No.177 on 29.1.2011 for Rs.1 lac. He was paid compensation of Rs.51,40,404/-. Similarly, one Khatri Mukesh Vajeram purchased land of survey No.187 on 22.1.2010 for Rs.50,000/- and received compensation of Rs.31,56,637/-. One Patel Vijaykumar Nathalal purchased land of survey No.206 on 29.12.2010 for Rs.2 lacs and received compensation of Rs.58,99,470/-. Counsel for the petitioner stated that the said land being a new tenure land could not have been purchased and for which purpose the Government has already initiated proceedings for declaring the sale as invalid. Pending such proceedings, the compensation was paid.

These are only by way of samples. Almost all cases of compensation paid to the purchasers of the land demonstrate similar C/WPPIL/234/2012 ORDER figures. This would prima facie suggest that the land was acquired by paying compensation at agreed rates which were extremely and perhaps artificially high. Though in the affidavit in reply, the respondent No.2 has tried to explain such rate fixation on the ground of a Committee having considered the jantri rates, we fail to see how such a Committee plainly overlooked the sale deeds of recent past of the very same land before arriving at a correct market price which could be offered to the land owners. For the other lands acquired by the respondent No.2 Corporation, where there is no intermediate sale, figures may not be available for immediate comparison. However, these lands are also situated in the same vicinity and would presumably have the same locational advantages and disadvantages. Such land owners also thus must have received compensation at the same rates.

The respondent No.2 being a Government company, the compensation would flow from the public exchequer. The petitioner has made out a strong case for further investigation into the entire affair of acquisition of the land by the Corporation at the rates indicated in the chart reproduced above. We are informed that such rates are reproduced on the basis of the information supplied by the Corporation to the petitioner.

At this stage, therefore, we direct the Principal Secretary, Revenue Department to conduct a thorough investigation into the allegations of the petitioner regarding excess compensation paid to the landowners of the said region. The observations made and the instances cited in this order shall be borne in mind. The report of the investigation shall be submitted by the next date of hearing. Such report shall also indicate whether in addition to any irregularities in payment of compensation and pilferage of C/WPPIL/234/2012 ORDER public funds, there is any element of involvement of any of the officers or the individuals in commission of offence punishable under the Indian Penal Code or any other penal statute. Since it is pointed out that Shri D.J.Pandyan was the Managing Director of the respondent No.2 Corporation at the relevant time, he shall not involve himself in this investigation in any manner.

S.O. to 5th November, 2014.

(AKIL KURESHI, J.) (J.B.PARDIWALA, J.) (vjn)

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