

Writ Petition (PIL) No. 234 of 2012
Farshubhai M. Goklani v. State of Gujarat
2014 SCC OnLine Guj 5719

(BEFORE AKIL KURESHI AND J.B. PARDIWALA, JJ.)

Farshubhai M. Goklani Applicant(s)

v.

State of Gujarat Thro Secretary & 3 Opponent(s)

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

Writ Petition (PIL) No. 234 of 2012

Decided on August 27, 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 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 15th October 2011. In this context, for ready reference, we may reproduce the details contained in the said chart at Annexure I.

Sr. No.	Survey No.	Name of the original owner	Name of the purchaser	Area of the land	Date of the sale deed	Sale consideration	Compensation
1	28	-	-	-	-	-	2777274
2	38	-	-	-	-	-	3070534
3	39	-	-	-	-	-	2794495
4	41	-	-	-	-	-	897001
5	42	-	-	-	-	-	2627949
6	47	-	-	-	-	-	1362806
7	53/1	Jadeja Subjiba Tapubha, Charanka	Nakrani Kalubhai Jethabhai, Amreli	1-52-77	12.8.10	100000	2604729
8	55	-	-	-	-	-	1052155
9	57	Harijan Okha Mangla/Charnaka	Nakrani Kalubhai Jethabhai, Amreli	1-53-78	-	100000	3760378

10	58	-	-	-	-	-	2656390
11	59	Harijan Khana Vasta, Charanka	Patel Visatlal Kalidas, Vipul Prahlad Patel from Karli	5-08-90	14-6-2010	340000	8676745
12	60	Jadeja Sonji Akheraj, Charanka	Nakrani Kalubhai, Jethabhai, Amreli	1-69-97	12-8-10	100000	2897989
13	61	Harijan Andi Karsan Harijan Sambhu Karamsinh Harijan Naresh Karamsinh	Patel Girish Amrutlal Patel Rohit Babulal	1-37-59	8-12-10	60000	2345908
14	73	-	-	-	-	-	3484508
15	90	-	-	-	-	-	3449897
16	97	-	-	-	-	-	30014821
17	98	Vaghmera Nitish Kantilal	Patel Ambaram Joitaram	2-59-00	19-6-10	400000	4415950
18	100	-	-	-	-	-	3794989
19	101	-	-	-	-	-	5709704
20	104	-	-	-	-	-	5933911
21	105	Jadeja Ranaji Savji, Charanka	Patel Ambaram Joitaram	1-07-24	5-10-10	80000	1828443
22	107	Ramilaben Dhanji Vhagamsi	Patel Ambaram Joitaram	3-64-24	-	300000	62443921
23	108	Sorathiya Jagdish Meghji	Patel Ambaram Joitaram	1-70-99	19-6-10	475000	2932429
24	109	Sorathiya Jagdish Meghji	Patel Ambaram Joitaram	2-27-63	19-6-10	-	3881262
25	110	Sorathiya Jagdish Meghji	Patel Ambaram Joitaram	4-55-27	19-6-10	-	7762353
26	111-p-1	Sorathiya Jagdish Meghji, (purchased from the original owner)	Patel Ambaram Joitaram	2-94-41	19-6-10	-	5019690
27	113	Jadeja Sonji Akheraj	Patel Ambaram Joitaram	8-19-49	16-8-10	498000	13972304
28	115/1	Jadeja Sajanba Tapubha	Patel Ambaram Joitaram	4-04-69	16-8-10	495000	6899964
29	115/2	-	-	3-48-03	16-8-10	-	5933911
30	119	-	-	-	-	-	3381015
31	132	Bhavan Jeram Ravaliya	Rupal Mital Shah	0-06-	24-6-201	400841	9763341

54	152/24	Kalaria Rajesh Babulal Ori. Owner Rana Vela	Kalaria Anuben Mithubhai, Rajkot	6-47-50	8-9-2011	150000 480000	111039875
55	152/25	Chaga Vaga	Radalia Sandip Madhubhai	6-47-50	-	100000	11039875
56	152/26	Nitesh Tribhovan Patel Or. owner Rabari Gugakala	Doshi Amin Vishnubhai	6-47-50	31-7-2010	485625	11039875
57	152/27	-	-	-	-	-	11039875
58	152/28	Hirpara Bhagwan Vithal	-	6-47-50	4-5-10	160000 15231 price	11039875
59	152/29	-	-	-	-	-	11039875
60	152/30	-	-	-	-	-	5519937
61	152/30-p-1	-	-	-	-	-	5519937
62	152/31	Hirpara Bhagwan Vithal	-	6-47-50	4-5-10	160000 (with 15228)	11039875
63	152/32	-	-	-	-	-	11038875
64	152/33	-	-	-	-	-	11039875
65	152/34	Chaga Vaga	Radalia Sandip Madhubhai	6-47-50	24-11-09	100000	11039875
66	152/35	-	-	-	-	-	4139910
67	152/35-p-1	-	-	-	-	-	6899964
68	152/36	Thakkar Bhailal Thakarsi	Patel Sanjay Amrutlal	6-47-50	11-10-10	453000	11039875
69	152/37	-	-	-	-	-	11039875
70	152/38-p-1	Nitesh Tribhovan Patel, Visnagar Ori. Owner Koli Khengar Bhura	Pravin Hiralal Shah, Kamalpur	4-45-16	31-7-2010	333870	7589975
71	152/39	Radalia Rajesh Bhikalal (No original owner)	Radalia Rajnikant Madhubhai	6-47-50	16-11-10	200000	11039875
72	152/40	-	-	-	-	-	3449803
73	152/43	Manjari Amarbhai Gokalbhai	Nutenbhai Jagdishbhai Shah	6-47-50	17-6-10	453250	11039875
74	152/44	-	-	-	-	-	11038875
75	160	-	-	-	-	-	6037405
76	165/1	-	-	-	-	-	11074316
77	176	Rauma Abdul Bachu, Ravabhai, Rahimbhai, Charkana	Patel Vasantlal Kalidas Vipul Prahladbhai Patel	1-22-42	19-6-10	60000	2087261
78	177	Vijaykaran Bhiimdan Gadhvi	Rohit Babubhai Patel, Girish Amrutlal Patel,	3-01-49	29-1-2011	100000	5140404

			Ashok Jethabhai				
79	178	Rauma Manubhai Thakkar Kankuben Pranalal	Truptiben Jivanbhai Patel, Visnagar, Shah Hiralal Atul	4-53-25	17-6-2010	317275	7727922
80	180	-	-	-	-	-	4312456
81	181	-	-	-	-	-	2139093
82	151/p-1	Himatlal Pujara Khengar G. Rajiya	Vira	2-42-81	22-9-10	200000	4139910
83	182	-	-	-	-	-	8504199
84	185	Thakkar Kankuben Prabhuram, Ori. Owner Rauma Amin	Nitesh Tribhovandas Patel, Kapilaben Chotalal	1-69-97	7-9-09	118779 120000	2897988
85	186	Thakkar Kankuben Prabhuram, Or. Owner Abharam Juma	Trupti Jivanbhai Patel	2-89-35	17-6-10	202545	4933417
86	187	Rauma Kuverben Sumra	Khatri Mukesh Vajeram	1-85-14	22-1-10	50000	3156637
87	188	-	-	-	-	-	3139416
88	192/1	-	-	-	-	-	9559848
89	193	-	-	-	-	-	4674769
90	194	Vaviya Ladha Khimji	-	3-29-82	29-102010	-	5623431
91	197	Jadeja Alandsang Madarsang	Jignesh Purshottam Patel	1-82-11	15-2-2011	125000	3104975
92	200	-	-	-	-	-	10298200
93	202	-	-	-	-	-	6382497
94	203	-	-	-	-	-	4726430
95	206	Harijan Drabhmanji Marknika	Patel Vijaykumar Nathalal, Surat	-	-	200000	5899470
96	212	Ruma Hirbhai Satyaram	Vipul Prahladbhai Patel, Unava	00-79-93	3-12-2010	60000	1362807
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 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 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 public funds, there is any element of involvement of any of the officers or the individuals in commission of offence punishable under the Penal Code, 1860 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.