

3. She stated that the Appellant is the owner of Revenue Block No.119 (new Revenue Block No.126), situated at village Moje Sarkuva, Taluka Vyara, District Tapi, measuring He-0-36-87 sq. meters (total area). She further stated that out of this land, an area measuring He-0-17-84 sq. meters had been acquired earlier for the purpose of constructing the Ukai High Level Cantor Canal. She, however, emphasised that an additional portion of He-0-11-41 sq. meters had been utilized without carrying out any acquisition proceeding or payment of compensation.

4. She stated that the High Court directed the State of Gujarat to file an affidavit regarding the alleged utilization of the land. Pursuant to the said direction, the Executive Engineer, Ukai Dam Division-1 filed an affidavit admitting that He-0-11-41 sq. meters of Appellant's land had been utilized for construction of canal without any legal acquisition or payment of compensation.

5. She submitted that the High Court failed to take into account Section 26(1) of the RFCTLAAR Act, 2013 especially its proviso which reads as under:-

“Provided that the date for determination of market value shall be the date on which the notification has been issued under Section 11”.

6. She submitted that since the acquisition process for He-0-11-41 sq. meters of land is yet to commence, the compensation amount can be determined only when there is Section 11 Notification qua the said land. According to her, there is no discretion given in the statute for the purpose of deciding the date of compensation. In support of her submission, she relied upon the judgment of the Allahabad High Court in ***Smt. Sabita Sharma & Ors. vs. State of U.P. & Ors., Writ-C No.30088 of 2022.***

7. Learned counsel for the Respondent-State of Gujarat candidly admitted that the acquiring body namely, the Executive Engineer, Ukai Division-1 at Ukai Dam has till date not been able to submit the proposal for acquisition of He-0-11-41 sq. meters on the online portal known as “PM Gati Shakti Portal” due to a technical error. She assured this Court that the process of acquisition would be commenced as soon as the technical error is resolved.

8. Having heard learned counsel for the parties, this Court is of the view that the issue that arises for consideration in the present Appeal is the interpretation of proviso to Section 26(1) of the RFCTLARR Act, 2013 in the context of the date that is relevant for determining the market value of the land being acquired.

9. This Court is of the view that the said provision lays down the methodology for computing the market value of the land on the date of the acquisition notification. The use of the word ‘shall’ in Section 26(1) proviso is reflective of the legislative mandate that Section 11 Notification is the date for determination of the compensation.

10. This Court has no doubt that the legislative intent is to ensure that the land owners receive fair compensation reflective of the market value prevailing at the time of acquisition. By fixing the date of 01st January, 2014 as the date for determination of market value, the impugned order deprives the Appellant of compensation at the 2023 rates, which must be considerably higher.

11. In fact, the legislative scheme does not give discretion to the Courts to select a date for valuation. On the contrary, RFCTLARR Act, 2013 expressly mandates that compensation/valuation must be determined as of

the date of Notification under Section 11 of the RFCTLARR Act, 2013 – which in this present case is yet to be issued.

12. This Court is also of the view that the date of enactment of RFCTLARR Act, 2013 i.e. 01st January, 2014 has no relevance to fresh acquisition initiated under the statute. The date of 01st January, 2014 is relevant only if land acquisition proceedings had been initiated under the old Land Acquisition Act, 1894 and where no award had been made before the enforcement of the RFCTLARR Act, 2013.

13. Consequently, this Court agrees with the submission of the learned counsel for Appellant that proviso to Section 26(1) explicitly states that the market value of the land shall be determined as on the date of issuance of the Notification under Section 11 of RFCTLARR Act, 2013

14. Accordingly, the present Appeal is allowed and the impugned judgment and final order dated 21st August, 2024 passed in R/Special Civil Application No. 20392 of 2023 is set aside and it is directed that the date of determination of market value of He-0-11-41 sq. meters land of Survey No.119 shall be the date on which Notification under Section 11 of the RFCTLARR Act, 2013 is issued by the Respondents.

.....J.
[DIPANKAR DATTA]

.....J.
[MANMOHAN]

**New Delhi;
April 21, 2025**