

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 704 OF 1992

The State of Maharashtra	... Appellant
vs.	
Chanchalabai w/o. Tukaram Rede (since deceased through her legal heir Ravindra Ramchandra Sawant-Patil)	... Respondent

**WITH
FIRST APPEAL NO.705 OF 1992**

The State of Maharashtra	... Appellant
vs.	
Dnyanoba Nivrutti Rede	... Respondent

**AND
FIRST APPEAL NO.714 OF 1992**

The State of Maharashtra	... Appellant
vs.	
Sahebrao Gopal Rede	... Respondent

Mr. A.R. Patil, learned AGP, for the Appellant/State.
Mr. Rupesh Bobade, for the Respondents in Appeal Nos. 704 and
705 of 1992.
None for Respondent in Appeal No. 714 of 1992.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 1st OCTOBER, 2015

ORAL JUDGMENT

. These three Appeals can be disposed of by a common judgment.

2. The First Appeal Nos. 704 and 705 of 1992 are directed against the judgment and order dated 22nd November, 1991 passed by the learned Civil Judge, Senior Division, Pandharpur in Land Acquisition Reference Nos. 143 and 144 of 1989 and the First Appeal No. 714 of 1992 is directed against the judgment and order dated 22nd November, 1991 in Land Acquisition Reference No. 142 of 1989. In all these Appeals the lands acquired are for the Right Bank Canal by Ujani Canal Division V. The notification was issued to that effect under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred as "*the said Act*") on 31st March, 1981. The notice under Section 12(2) of the said Act was served on 12 and 13th February, 1984 respectively and granted compensation at the rate of Rs. 14,000 per hectare which was found not adequate and reasonable by the original Applicants. Therefore they have made reference to the Collector. The Collector has accepted the reference. Therefore the

Land Acquisition Reference was filed before the Civil Court by the respective claimants. They have demanded that the compensation of Rs. 14,000 per hectare should have been enhanced and the appropriate compensation claim of Rs. 50,000 per hectare be granted. It was submitted that the lands are of high fertile quality. It is irrigated lands on canal water. The Reference Court partly allowed the References and the market value of the lands acquired was determined at the rate of Rs. 25,000 per hectare by the Civil Judge, Senior Division, Pandharpur and accordingly the order was passed.

3. The State being aggrieved by the said judgment and order, filed these three Appeals as the amount of compensation is excessive and the enhancement cannot be justified.

4. When these three Appeals came for final hearing, the learned Government Pleader appearing for the State pointed out that the ideal judgment passed by this Court on 22nd June, 2011 in the group of First Appeal Nos. 711 of 1992, 713 of 1992 and 715 of 1992. The learned AGP has submitted that the lands acquired in the present Appeal and the lands acquired in those Appeals which were decided

by the order dated 22nd June, 2011 were acquired under the same notification dated 31st March, 1981 and this Court has maintained the market value of the lands as determined by the learned Civil Judge, Senior Division as Rs. 25,000/- per hectare, however has set aside the order in respect of granting the interest from the date of the taking the possession of the land. He pointed out that the possession in the present case was taken on 24th August, 1977 i.e. prior to the notification under Section 4(1) of the Land Acquisition Act, 1894 which was issued on 31st March, 1981 and therefore, the Court has considered after taking into consideration Section 28 of the Land Acquisition Act. He relied upon the decision of the Apex Court in the case of “*R.L. Jain (D) by LRs. vs. D.D.A. and Others*”¹.

5. The learned counsel for the Respondents in the First Appeal Nos. 704 and 705 of 1992 has opposed the Appeals and submitted that the judgment of this Court dated 22nd June, 2011 passed in group of Appeals has not covered the issue.

6. None present for the Respondent in the First Appeal No. 714 of 1992 though the Respondent was served.

1. (2004) 4 SCC 79.

7. As pointed out by the learned AGP and the learned counsel for the Respondents, this Court in the earlier judgment has maintained the market value of the lands which was determined as Rs. 25,000/- per hectare, as determined by the Civil Judge, Senior Division, Pandharpur. The lands acquired in the present Appeals and the lands acquired in the group of First Appeal Nos. 711, 713 and 715 1992 decided on 22nd June, 2011 are from the same village and the said lands acquired for the same project. Thus, these cases are squarely covered under the said order of this Court. In those Appeals and in the present Appeals also, the possession was taken on 24th August, 1977 i.e. prior to the notification dated 31st March, 1981 under Section 4(1) of the said Act. As per the ratio laid down in the case of “R.L. Jain (D) by Lrs.,” the interest can not be granted under Section 28 of the said Act from the date prior to the date of notification under Section 4(1) of the said Act.

8. Under such circumstances, I pass the following order:

- i) The impugned awards insofar as the market value and grant of statutory benefits under Section 23(1-A) and Section 23 (2) of the Land Acquisition Act, 1894 are confirmed. However, the

interest under Section 23(1-A) shall be payable from the date of the publication of notification under Section 4(1) till the date of the Award under Section 11 of the said Act.

ii) The claimants will be entitled to statutory benefit under Section 28 of the Land Acquisition Act, 1894. However, the starting point of payment of interest shall be from the date of the award under Section 11 of the Land Acquisition Act, 1894 which is 12th February, 1984. To that extent the impugned awards are modified.

iii) The Appeals are partly allowed on above terms with no orders as to costs.

iv) It will be open for the Claimants to apply to the State Government for grant of rental compensation in terms of the policy of the State Government.

9. In view of the above, all the three Appeals stands disposed of.

(MRS.MRIDULA BHATKAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.