

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1426 OF 2008

IN

L.A.R. No.800 of 2000

ALONGWITH

CROSS OBJECTION STAMP NO.16577 OF 2008

The State of Maharashtra
(Through Special Land Acquisition
Officer, Metro Center No.3, Panvel,
Taluka Panvel, District. Raigad

.. Appellant.
(Orig.Opponent)

V/s

1 Dattatraya Shankar Keni (deceased)
Through Legal Heirs

1/1. Ramubai Dattatraya Keni, 60 years

1/2. Prakash Dattatraya Keni, 35 years

1/3. Pravin Dattatraya Keni, 27 years

1/4 Nisha Dattatraya Keni, 25 years

All R/o. Chinchpada, Tal. Panvel

Dist. Raigad

.. Respondents
(Orig. Claimants)

WITH

CIVIL APPLICATION NO.4431 OF 2011

IN

FIRST APPEAL NO.1426 OF 2008

State of Maharashtra
Through Special Land Acquisition
Officer, Panvel

.. Appellant

V/s

1 Dattatraya Shankar Keni (deceased)

Through Legal Heirs

- 1/1. Ramubai Dattatraya Keni, 60 years
 - 1/2. Prakash Dattatraya Keni, 35 years
 - 1/3. Pravin Dattatraya Keni, 27 years
 - 1/4 Nisha Dattatraya Keni, 25 years
- All R/o. Chinchpada, Tal. Panvel
Dist. Raigad

.. Respondents

- 2 City Industrial & Development
Corporation, CBD, Belapur

.. Applicant
(Intervener)

WITH
CIVIL APPLICATION NO.131 OF 2014
IN
CROSS OBJECTION STAMP NO.16577 OF 2008
IN
FIRST APPEAL NO.1426 OF 2008
IN
L.A.R. NO.800 OF 2000

Dattatraya Shankar Keni
since deceased through
Legal representatives

- 1) Ramubai Dattatraya Keni
 - 2) Prakash Dattatraya Keni
 - 3) Pravin Dattatraya Keni
 - 4) Nisha Santosh Patil
- Knee Nisha Dattatraya Keni
All residing at Chinchpada,
Taluka Panvel, District Raigad

.. Applicants.

In the matter between :-

The State of Maharashtra
(Through the Special Land Acquisition

Officer, Metro Centre No.3,
Panvel, District. Raigad)

.. Appellant.
(Org.Opponent)

V/s

Dattatraya Shankar Keni

Since deceased through

Legal Representatives

1) Ramubai Dattatraya Keni

2) Prakash Dattatraya Keni

3) Pravin Dattatraya Keni

4) Nisha Santosh Patil

Knee Nisha Dattatraya Keni

All residing at Chinchpada,

Taluka Panvel, District Raigad

.. Respondents

Mr. A.R. Patil, Assistant Government Pleader for the Appellant in
First Appeal No.4431 of 2011.

Mr. Sachin S. Punde for the Respondents in First Appeal
No.1426 of 2008 and for the Applicants in Civil Application
No.131 of 2014.

None for the Applicant in Civil Application No.4431 of 2011.

AND

FIRST APPEAL NO.1929 OF 2008

1. Hanuman Vilas Kini
since deceased through his
Legal Representatives
- 1/1 Anjana Hanuman Keni
- 1/2 Abhijit Hanuman Keni
- 1/3 Amol Hanuman Keni
- 1/4 Amruta Hanuman Keni
2. Ramubai Vilas Keni

3. Anubai Vilas Keni
 4. Yadav Vilas Keni
 5. Anita Vilas Keni
 6. Taibai Balu Keni
since deceased through her
Legal Representatives
 - 6/1 Kisan Balu Keni
 - 6/2 Joma Balu Keni
 - 6/3 Govind Balu Keni
- All residing at Chinchpada
Taluka Panvel, District Raigad .. Appellants
- V/s
- The State of Maharashtra
(Through the Special Land
Acquisition Officer, Metro Centre
No.3, Taluka Panvel, District Raigad .. Respondent

AND
FIRST APPEAL NO.1931 OF 2008

- 1 Kisan Balu Keni
 - 2 Joma Balu Keni
 - 3 Govind Balu Keni
 - 5 Hanuman Vilas Keni
since deceased through his
Legal Representatives
 - 5/1 Anjana Hanuman Keni
 - 5/2 Abhijit Hanuman Keni
 - 5/3 Amol Hanuman Keni
 - 5/4 Amruta Hanuman Keni
 - 6 Ramubai Vilas Keni
 - 7 Yadav Vilas Keni
 - 8 Anita Vilas Keni
- All residing at Chinchpada
Taluka Panvel, District Raigad
- 9 Ambibai Vilas Keni

Residing at Kamothe,
Taluka Panvel, District. Raigad
V/s

.. Appellants

The State of Maharashtra
(Through the Special Land Acquisition
Officer, Metro Centre No.3,
Taluka Panvel, District Raigad.

.. Respondent

Mr. Sachin S. Punde for Appellants in First Appeal No.1929 of 2008 and First Appeal No.1931 of 2008.

Mr. A.R. Patil, Assistant Government Pleader for Respondent/State in First Appeal No.1929 of 2008 and First Appeal No.1931 of 2008.

CORAM : A.S. OKA &

K.R. SHRIRAM, JJ.

DATE : AUGUST 20, 2015.

JUDGMENT :

. These appeals can be disposed of by a common judgment. These three appeals arise out of judgment and Award made by the learned Joint Civil Judge, Senior Division, Alibaug, District Raigad in Land Acquisition Reference Nos.800 of 2000, 745 of 2000 and 746 of 2000 under Section 18 of the Land Acquisition Act, 1894 (for short 'the said Act'). The lands the subject matter of the acquisition are situated at Village Wadghar, Taluka Panvel, District Raigad.

2 The lands the subject matter of these appeals were notified for acquisition under the Notification dated 24 September 1986 issued under sub-section (1) of Section 4 of the said Act for the public purpose of setting up the city of New Bombay. The Claimants before the Reference Court did not accept the Awards made under Section 11 of the said Act and therefore, preferred applications for making references under Section 18 of the said Act. As far as the First Appeal No.1426 of 2008 is concerned, the Reference Court granted the market value at the rate of Rs.300/- per sq. metre by the impugned Award. In First Appeal No.1929 of 2008, the same market value was fixed by the Reference Court. Even in the impugned Award which is the the subject matter of First Appeal No.1929 of 2008, the market value at the rate of Rs.300/- per sq. metre was fixed. In case of the impugned Awards in all the three appeals, the statutory benefits under Sections 23(1-A), 23(2) and 28 of the said Act were granted. Under the impugned Award subject matter in First Appeal No.1931 of 2008, the Reference Court

held that the Claimants were entitled to 60% of the compensation amount.

3 First Appeal No.1426 of 2008 is preferred by the State Government for challenging the Judgment and Award in Land Acquisition Reference No.800 of 2000. The Claimants have filed Cross Objection seeking enhancement. In this appeal, Civil Application No.131 of 2014 has been preferred by the Claimants for permitting the amendment of the claim in the Cross Objection for the purpose of claiming the market value at the rate of Rs.2,000/- per sq. metre. As far as this Civil Application is concerned, in view of the law laid down by the Apex Court in a decision in the case of *Ambya Kalya Mhatre v. State of Maharashtra*¹, the prayer made therein will have to be allowed. There is another civil application being Civil Application No.4431 of 2011 made by the City Industrial & Development Corporation, CBD Belapur for a direction to implead it as a party respondent. In view of the law laid down by a Division Bench of this Court, which has attained finality, the CIDCO is not

¹(2011) 9 SCC 325

acquiring body of the lands subject matter of the acquisition. Hence, the said Application will have to be rejected.

4 First Appeal No. 1929 of 2008 has been preferred by the legal representatives of the original Claimant for challenging the Judgment and Award dated 20th January 2007 in Land Acquisition Reference No.745 of 2000. The Appellants are claiming the market value at the rate Rs.2,000/- per sq. metre. First Appeal No.1931 of 2008 takes exception to the Judgment and Award dated 20th January 2007 in Land Acquisition Reference No.746 of 2000 wherein the Appellants are claiming market value at the rate of Rs.2,000/- per sq. metre.

5 There is no dispute between the parties that these three appeals will be governed by the Judgement and Order dated 2nd and 6th July 2015 passed by this Court in First Appeal No.1310 of 2005 and other connected appeals. In view of the said decision, the market value will have to be fixed at the rate of Rs.1,725/- per sq. metre.

6 Hence, for the reasons recorded in the said Judgement and Order, we dispose of all the three appeals by passing the following order.

: O R D E R :

(A) First Appeal No.1931 of 2008 and First Appeal No.1929 of 2008 are partly allowed. First Appeal No.1426 of 2008 is dismissed with no order as to costs. Cross Objection (St.) No.16577 of 2008 is partly allowed;

(B) The impugned Awards are modified by directing that the Claimants will be entitled to the market value in respect of the acquired lands at the rate of Rs.1725/- per sq. metre. In addition to the market value, the Claimants will be entitled to statutory benefits under Section 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894;

(C) The impugned Award under which the Claimants are held entitled to 60 % of the compensation is also confirmed;

(D) The Claimants will be entitled to proportionate costs throughout in First Appeal No.1929 of 2008, First Appeal

No.1931 of 2008 and Cross Objection (St.) No.16577 of 2008;

(E) Reference Court shall carry out the exercise of computation of the amount of the total compensation payable in terms of modified Awards within a period of four months from the date of the receipt of writ of this judgment alongwith the Record and Proceedings;

(F) Before arriving at the final computation of the compensation payable in terms of modified Awards, the Reference Court shall give an opportunity of being heard to the State of Maharashtra;

(G) The amount payable to the Claimants shall be deposited by the State Government with the Reference Court within a period of four months from the date on which compensation amount is determined by the Reference Court;

(H) Civil Application No.4431 of 2011 is rejected;

(I) Civil Application No.131 of 2014 is allowed in terms of prayer -(A). Amendments be carried out within a period of eight weeks from today;

(J) Deficit court fees on the Cross Objection shall be paid within eight weeks from today;

(K) The Decree in Cross Objection (St.) No. 16577 of 2008 shall not be drawn, unless the amendment is carried out and deficit Court fees is paid;

(L) Records and Proceedings of these appeals alongwith the writ be expeditiously forwarded to the Reference Court.

(K.R. SHRIRAM, J.)

(A.S. OKA, J.)

Chittewan

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C E R T I F I C A T E

Certified to be true and correct copy of the original signed order.