

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 389 OF 1992

The State of Maharashtra	... Appellant
Vs.	
Ashok Namdeo Patil	... Respondent

FIRST APPEAL NO. 391 OF 1993

Ashok Namdeo Patil	... Appellant
Vs.	
The State of Maharashtra	... Respondent

Mr. A.R. Patil, AGP for the appellant/State in F.A. No. 389 of 1992 and respondent in F.A. No. 391 of 1993.

Mr. S.M. Gorwadkar, Senior Advocate for respondent in F.A. No. 389 of 1992 and appellant in F.A. No. 391 of 1993.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE : 8th October, 2015

P.C.:

Both these Appeals are directed against the judgment and order dated 27th August, 1991 passed by the 3rd Additional District Judge, Raigad in Land Acquisition Reference No. 373 of 1996. This land is situated at Village Chal, Taluka Panvel, District Raigad. The land was acquired from village Chal for New Mumbai Project. The notification under section 4 was published on 5th October, 1973 and the notification under section 6 was published on 10th May, 1976. The Special Land Acquisition Officer, after considering the sales statistics, potentiality of the land, has made valuation @Rs.2/- per sq.m. As it was found too meagre, the original claimant made

reference to the Collector, pursuant to which a reference under section 18 of the Land Acquisition Act, 1894 was filed before the District Judge, Raigad at Alibag in which the claimant made demand of Rs.10/- per sq. mtrs. and orally demanded rate of Rs.12/- per sq. mtr. The Additional District Judge gave compensation @ Rs.8/- per sq. mtr. Being aggrieved by the said judgment and award, these two Appeals are filed.

2. In the cross-appeal, the original claimant prayed that the learned Reference Judge ought to have fixed the market value of the land @Rs.25/- per sq. mtr. and also ought to have considered the availability of all infrastructural facilities available to the acquired land especially for commercial and industrial use.

3. At the time of arguments, the learned senior counsel Mr. Gorwadkar for the claimant pointed out the judgment dated 31st August, 2004 of this Court in First Appeal No. 1049 of 1989 with Cross-objection no. 10604 of 1990 wherein the lands acquired were situated at Village Chal, Taluka Panvel, District Raigad and they were acquired by the notification dated 3rd February, 1970 for the project of New Mumbai for CIDCO. It was submitted that the Division Bench in the said matter has fixed the market value of the lands @Rs.15/- per sq.mtr.

4. The lands in First Appeal No. 1049 of 1989 and the land acquired in the present Appeal are from the same village, i.e. Chal, Tal. Panvel and are acquired for the same project for CIDCO though notification under section 4 are from the different years. The Notification in Appeal no. 1049 of 1989 is dated 3rd February, 1970 and the notification in the present Appeals is of 5th October, 1973. The land is from same village. The Division Bench while fixing the rate of Rs.15/- per sq. mtr. has considered the rates fixed in the neighbouring village at Kalamboli which is Rs.23/- per sq. mtr. and village Ambetarkhar at Rs.15/- per sq. mtr. The village Chal is near industrial estate which commenced in the year 1965. The Division Bench also placed reliance on the earlier Division bench judgments in First Appeal No. 757 of 2003 and First Appeal No. 1782 of 2002 and applied the test on the distance from the National Highway in terms of the earlier Division Bench award in the judgment divided the lands into three categories. The distance of the land more than 1,500 mtrs. from the National Highway, the market value was fixed at Rs.21/- per sq. mtr. It is observed by the Division Bench that the lands situated at village Chal are at the distance of 3040 sq. mtr. from Pune -Mumbai Highway and considering the other facts, it fixed the rate @ Rs.15/- per sq. mtr. and, therefore, safely adopted.

5. The learned counsel for the original claimant Mr. Gorwadkar has

submitted that the lands acquired in the Appeals before the Division Bench is notification of 1970 and the land in the present Appeal is notification of 1973, that means three years later the land in the present Appeal was acquired. He, therefore prays for 10% yearly rise in the market value fixed by the Division Bench. Considering the position of the land and the reasoning given by the learned Judge of the Reference court and the judgment of the Division Bench, I am of the view that it is appropriate to fix the market value at Rs.18/- per sq. m. It is a just compensation. Rest of the order passed by the Reference Court is maintained.

6. Thus, the Appeal filed by the State is dismissed and the First Appeal No. 391 of 1993 filed for enhancement is partly allowed.

(MRIDULA BHATKAR, J.)