

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

FIRST APPEAL NO.111 OF 1995
AND
CIVIL APPLICATION NO.6235 OF 1995
IN
FIRST APPEAL NO.111 OF 1995
WITH
CROSS OBJECTION (ST) NO.12092 OF 2007

State of Maharashtra

... Appellant

Vs.

Kundalik Dhakalu Patil & Ors.

... Respondents

Mr. Dilip Bodke for the Appellant / Applicant
Mr. Rajan Pawar, AGP for the State.

CORAM: K.K. TATED, J.
DATED : JUNE 18, 2015

PC. :

1. By consent of the parties taken up for final hearing.
2. Heard the learned counsel for the parties. This appeal is preferred by the State of Maharashtra challenging the judgment and award dated 23/08/1991 passed by 2nd Additional District Judge, Raigad at Alibaug in LAR No.397/1987 holding that the claimant is entitled to enhanced compensation in respect of the acquired land @ Rs.12/- per sq.mtr.

3. The Respondent claimant also filed cross-objection for additional compensation in respect of the acquired land @ 15/- per sq.mtr.

4. Few facts of the matter are as under:

The SLO issued Notification under section 4 of the Land Acquisition Act, 1894 (said Act) dated 09/02/1997 for acquiring claimant's land bearing Sy.No.44 H.No.2, Sy.No.47 H.No.2 and Sy.No.44 H.No.4 and Sy.No.88 H.No.5/6+1 situated at village Valavali, Tq. Panvel, Dist. Raigad for New Bombay Project. After following due process of law, the SLO passed award dated 16/09/1985 and awarded compensation in respect of the acquired land.

5. Being aggrieved by the said award, the claimants preferred Reference under section 18 of the said Act, claiming compensation in respect of the acquired land @ Rs.15/- per sq.mtr.

6. The Reference Court, considering the evidence on record and sale instances held that the claimants are entitled to compensation @ Rs.12/- per sq.mtr. for acquired land along with additional benefits as per the amended provisions of the said Act. Hence, present appeal.

7. The learned counsel for the claimant submits that in the present proceedings, the SLO acquired the land for new Bombay Project from village Valavli by issuing Notification under section 4 on 03/02/1970. He submits that in another First Appeal No.495/1992 with connected matters, this court held that the claimants are entitled to compensation @ Rs.14/- per sq.mtr. in similarly situated area. He submits that in the

said group of appeals, Notification under section 4 of the said Act was issued on same day i.e. 03/02/1970 for same Project. Hence, the claimants are entitled to same rate in the present proceedings.

8. The learned AGP also admits that this court (Coram : A.S.Oka,J.), by oral judgment dated 12/03/2008 in First Appeal No.494/1992 with connected matters held that claimants are entitled to compensation @ Rs.14/- per sq.mtr. from village Valavli for acquisition of their land for New Bombay Project.

9. Considering the submissions made by the learned counsel for the parties, following issues are involved in the present First Appeal and cross-objection.

a) Whether the compensation awarded by the Reference Court in respect of the acquired land @ Rs.12/- per sq.mtr. was on higher side ?

b) Whether the claimants are entitled to compensation in respect of acquired land @ Rs.15/- per sq.mtr. ?

10. It is to be noted that the facts in the connected First Appeal No.495/1992 are similar to the present First Appeal. In both the matters, the SLO issued Notification under section 4 of the Land Acquisition Act, 1894 on 03/07/1970 for acquiring land from village Valavli, Tq. Panvel, Dist. Raigad for New Bombay Project.

11. Considering these facts and the law declared by this Court in the matter of *Bayaji Tatya Kalunge Vs. State of Maharashtra* 2007(2) All MR 316, I am of the opinion that on the basis of the parity, the claimant

in the present appeal is entitled to compensation @ Rs.14/- per sq.mtr.
Both the issues are answered accordingly.

12. Hence, the following order:

- a. First Appeal as well as cross-objection stand disposed of accordingly.
- b. First Appeal No.111/1995 is dismissed with costs.
- c. Cross-objection No.12092/2007 preferred by the claimant is partly allowed.
- d. The impugned judgment and award is modified holding that the market value of the acquired land will be @ Rs.14/- per sq.mtr.
- e. In addition to market value, the claimants are entitled to statutory benefit as per the amended provisions of the Land Acquisition Act, 1894.
- f. The claimants will be entitled to proportionate cost of the Reference as well as the Cross-objection from the State of Maharashtra.

(K.K. TATED, J.)