

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 212 OF 1993

The State of Maharashtra
(Through the Collector, Kolhapur)
Collector Office, Kolhapur

.....Appellant

V/s.

Mahadev Bapurao Patil
(deceased by his heirs)
1. Smt. Sonabai Mahadev Patil,
50 years, Household, R/o. H.
No.1, Tembalaiwadi, Kolhapur

2. Balaso Mahadev Patil, 35 years
Rickshaw driver, - do-

3. Shivaji Mahadev Patil

.....Respondents

* * * * *

Mr. A.R. Patil, AGP for the State, appellant.

None for the respondent.

Coram :- Smt. R.P. SondurBaldota, J.

7th April, 2016.

P.C. :-

1). This First Appeal by the Government is directed against the judgment and Award dated 9th April, 1991 by which the Court of Second Additional District Judge, Kolhapur enhanced the compensation payable by the appellant to the respondents for acquisition of their land.

2). The Special Land Acquisition Officer, by the Award dated 28th February, 1986 acquired land admeasuring 2700 sq.mts belonging to the respondents for the purpose of timber market on publication of

Notification under Section 126(4) of the Maharashtra Regional and Town Planning Act and under Section 6 of the Land Acquisition Act published notice on 10th December, 1981. He awarded compensation to the respondents at the rate of Rs.20 per sq.mtr. It was contended on behalf of the respondents that on the date of publication of the Notification, the value of the land was @ Rs.15/- per ft. It was also contended that, for the other land acquired for cattle market purposes, the Land Acquisition Officer had awarded Rs.40/- per sq.mtr.

3). The Land Acquisition Officer had considered ten sale instances of the developed land around, wherein the market rate ranged between Rs.26/- to Rs.52/- per sq.mtr on the date of publication of the Notification. He considered those instances and the locations of the lands acquired, to hold that the market rate of the land acquired would be Rs.50/- per sq.mtr. He next provided for deduction of the Architect's fees and the development costs to arrive at the value at the rate of Rs.20/- per sq.mtr. The Reference Court, relying upon decision of this Court in **State of Maharashtra Vs. Nanabai Rathod, reported in AIR 1989 Bombay page 9** found that the deduction by the Land Acquisition Officer towards development cost ought to have of 25 % of the total market value and calculated the compensation accordingly. Since the original land value at the rate of Rs.50/- per sq.mtr accepted by the Land Acquisition Officer has not been disturbed as it was found to be proper and since all that the Reference Court has done is application of the ratio of the decision of this Court in *Nanabai Rathod's* case (supra), there is nothing to interfere with the impugned order. Hence, the First Appeal is dismissed.