

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1954 OF 2005
WITH
CROSS OBJECTION (STAMP) NO.21739 OF 2011

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Manohar Mukund Patil (Since Deceased),	]	
Through his LRs :-	]	
1. Bedkubai w/o. Manohar Patil	]	
Age 75 Yrs., Occ.	]	
2. Shankar Manohar Patil	]	
Age 42 Yrs., Occ. Agriculturist	]	
3. Hiranman Manohar Patil	]	
Age 37 Yrs., Occ. Agriculturist	]	
4. Ankush Manohar Patil	]	
Age 30 Yrs., Occ. Agriculturist	]	
R/at Village Koli-Kopar, Tal. Panvel,	]	
Dist. Raigad.	]	
5. Kanta Dharma Mhatre	]	
Age 40 Yrs., Occ. Housewife	]	
R/at Post Jui Kamothe,	]	
Tal. Panvel, Dist. Raigad	]	
6. Karina Kisan Tandel	]	
Age 32 Yrs., Occ. Household	]	
R/at Post Tal. Panvel, Dist. Raigad.	]	 Respondents

ALONG WITH

FIRST APPEAL NO.1955 OF 2005

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Gangaram Kashiram Pawar	]	

Adult, resident of Kopar, Tal. Panvel,]
Dist. Raigad.] Respondent

ALONG WITH

FIRST APPEAL NO.1956 OF 2005

The State of Maharashtra,]
Through the Special Land Acquisition]
Officer, Metro Centre No.1, Panvel,]
Dist. Raigad.] Appellant

V/s.

1. Mahadeo Ramji Koli (Since Deceased),]
Through LRs :-]
1A. Kanha Mahadeo Koli]
1B. Ganubai Mahadeo Koli]
1C. Suresh Mahadeo Koli]
1D. Baliram Mahadeo Koli]
1E. Janabai Chandrakant Koli]
1F. Hiraji @ Hiranman Mahadeo Koli]
1G. Ramdas Mahadeo Koli]
1H. Savitribai Gana Koli]
1I. Bamubai Kana Koli]
1J. Chandrakant Mahadeo Koli]

Respondent Nos.1 to 4, 6, 7, 9 and 10]
residents of Ganeshpuri, Tal. Panvel,]
Dist. Raigad.]

Respondent No.5 resident of Dowable,]
Post Belapur, Dist. Thane.]

Respondent No.8 resident of Kombadbhuje,]
Post Ulva, Tal. Panvel, Dist. Raigad.]

2. Krishna Nathuram Koli]
3. Krishna Sukir Koli]
4. Sahadeo Changa Koli]
5. Jombai @ Janabai Gana Koli]
6. Havalubai Nathu Koli]
7. Changuna Bhagwan Koli]
8. Bebi Ramnath Koli]
9. Padmakar Nathu Koli]
10. Kamal Nathu Koli]

All Adults, residents of Ganeshpuri,]
Post Ulve, Tal. Panvel, Dist. Raigad.] Respondents

ALONG WITH
FIRST APPEAL NO.1957 OF 2005

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Tulsabai Balu Patil (Since Deceased),	]	
Through the LRs :-	]	
1A. Ramchandra Balu Patil	]	
Age 63 Yrs., Occ. Business	]	
R/at Kopar Kolhi, Tal. Panvel, Dist. Raigad	]	
1B. Rajendra Balu Patil	]	
Age 41 Yrs., Occ. Business	]	
R/at Kopar Kolhe, Ta. Panvel, Dist Raigad	]	
1C. Gulab Balkrishna Bhagat	]	
Age 58 Yrs., Occ. Household	]	
R/at Nandgaon, Tal. Panvel, Dist. Raigad	]	
1D. Shewanta Balu Patil	]	
Age 55 Yrs., Occ. Household	]	
R/at Kopar Kolhi, Tal. Panvel, Dist. Raigad	]	
1E. Sunanda Laxman Patil	]	
Age 52 Yrs., Occ. Household	]	
R/at Mande Talegaon, Tal. Khalapur,	]	
Dist. Raigad.	]	
1F. Jayshree Mahadev Ketokar	]	
Age 48 Yrs., Occ. Household	]	
R/at Bhangarpadi, Tal. Panvel, Dist. Raigad	]	
1G. Ganga Namdeo Bhagat	]	
Age 44 Yrs., Occ. Household,	]	
R/at Nandgaon, Tal. Panvel, Dist. Raigad.	]	 Respondents

ALONG WITH
FIRST APPEAL NO.1958 OF 2005

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		

Janardan Shankar Naik]
Adult, Resident of Panvel, Dist. Raigad.] Respondent

ALONG WITH

FIRST APPEAL NO.1959 OF 2005

The State of Maharashtra,]
Through the Special Land Acquisition]
Officer, Metro Centre No.1, Panvel,]
Dist. Raigad.] Appellant
V/s.
Haribhau Balaram Patil]
Adult, R/of Kopar, Tal. Panvel, Dist. Raigad.] Respondent

ALONG WITH

FIRST APPEAL NO.1960 OF 2005

The State of Maharashtra,]
Through the Special Land Acquisition]
Officer, Metro Centre No.1, Panvel,]
Dist. Raigad.] Appellant
V/s.
Rambhau Bandu Patil]
Adult, R/of Kopar, Tal. Panvel, Dist. Raigad.] Respondent

ALONG WITH

FIRST APPEAL NO.1961 OF 2005

The State of Maharashtra,]
Through the Special Land Acquisition]
Officer, Metro Centre No.1, Panvel,]
Dist. Raigad.] Appellant
V/s.
Changa Halya Patil]
Adult, R/of Kopar, Tal. Panvel, Dist. Raigad.] Respondent

ALONG WITH

FIRST APPEAL NO.31 OF 2005

The State of Maharashtra,]
Through the Special Land Acquisition]

Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Gopal Arjun Patil (Since Deceased),	]	
Through LRs	]	
1. Smt. Bebi Hanuman Patil	]	
Age 36 Yrs., Occ. Household	]	
2. Navnath Hanuman Patil	]	
Age 18 Yrs., Occ. Education	]	
3. Usha Hanuman Patil,	]	
Age : 15 Yrs., Occ. Education	]	
4. Sujit Hanuman Patil,	]	
Age : 14 Yrs., Occ. Education	]	
5. Shailesh Hanuman Patil,	]	
Age : 12 Yrs., Occ. Education	]	
Respondent No.1 for herself and on	]	
behalf of Respondent Nos.2 to 5 as	]	
natural guardian mother. All R/o. Kopar,	]	
Tal. Panvel, Dist. Raigad.	]	 Respondents

ALONG WITH
FIRST APPEAL NO.1625 OF 2003
WITH
CROSS OBJECTION (STAMP) NO.6087 OF 2005

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Dwarkabai Kalya Patil (Since Deceased),	]	
Through LR :-	]	
Malti Balkrishna Katekar	]	
Age 26 Yrs., Occ. Agriculturist,	]	
R/of Bhangar Wada, Tal. Panvel. Dist. Raigad	]	 Respondent

ALONG WITH
FIRST APPEAL NO.1882 OF 2006

Haribhau Balaram Patil	]
Adult, resident of Kopar, Tal. Panvel,	]

Dist. Raigad.	]	 Appellant
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.1883 OF 2006

Tulsabai Balu Patil	]	
Adult, resident of Kopar, Tal. Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.1884 OF 2006

Rambhau Bandu Patil	]	
Adult, resident of Kopar, Tal. Panvel,	]	
Dist. Raigad.	]	 Appellant
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.2290 OF 2006

Gangaram Kashiram Pawar (Since Deceased)	]
Through LRs :-	]
1. Tulashiram Gangaram Pawar, Age 64 Yrs.	]
2. Ekanath Gangaram Pawar, Age 60 Yrs.	]
3. Dayal Gangaram Pawar, Age 54 Yrs.	]
4. Bhaskar Gangaram Pawar, Age 46 Yrs.	]
5. Ashok Gangaram Pawar, Age 40 Yrs.	]
6. Hirabai Vitthal Khande, Age 58 Yrs.	]
7. Kamalabai Shantaram Patil, Age 44 Yrs.	]
8. Kusum Suryakant Vaskar, Age 42 Yrs.	]
9. Hemalata Balaram Patil, Age 38 Yrs.	]
10. Mainabai Gangaram Pawar, Age 74 Yrs.	]
Appellant Nos.1 to 5, 9 and 10 are residents	]

of Village Kopar Kolhi, Tal. Panvel, Dist. Raigad	]	
Appellant No.6 resident of Adai, Tal. Panvel,	]	
Dist. Raigad.	]	
Appellant No.7 resident of Devad, Tal. Panvel,	]	
Dist. Raigad.	]	
Appellant No.8 resident of Kundevahal,	]	
Tal. Panvel, Dist. Raigad.	]	 Appellants
V/s.		
Special Land Acquisition Officer,		
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.1665 OF 2006

Gopal Arjun Patil, (Since Deceased),	]	
Through LRs :-	]	
1. Smt. Bebi Hanuman Patil	]	
Age 36 Yrs., Occ. Household	]	
2. Navnath Hanuman Patil	]	
Age 18 Yrs., Occ. Education	]	
3. Usha Hanuman Patil	]	
Age 15 Yrs., Occ. Education	]	
4. Sujit Hanuman Patil	]	
Age 14 Yrs., Occ. Education	]	
5. Shailesh Hanuman Patil	]	
Age 12 Yrs., Occ. Education	]	
Appellant No.1 for herself and on behalf	]	
of Appellant Nos.2 to 5 as natural guardian	]	
mother. All residents of Kopar, Tal. Panvel,	]	
Dist. Raigad.	]	 Appellants
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.3147 OF 2006

Janardhan Shankar Naik (Since Deceased),	]
Through LRs :-	]
1. Dilip Janardhan Naik	]
Age 42 Yrs., Occ. Agriculturist	]

R/at Kopar-Kolhi, Post-Pargaon, Tal. Panvel, Dist. Raigad.	]	
2. Smt. Sitabai Janardhan Patil Age 57 Yrs., Occ. Household R/at Ovale, Tal. Panvel, Dist. Raigad	]	
3. Smt. Nanda Krishna Damade Age 32 Yrs., Occ. Household R/at Bhangarpada, Tal. Panvel, Dist. Raigad.	]	
4. Smt. Santhoshi Vinod Patil R/of Pargaon, Tal. Panvel, Dist. Raigad	]	
5. Smt. Jayshree Janardhan Bhopi Age 24 Yrs., Occ. Household, R/at Kon, Tal. Panvel, Dist. Raigad.	]	
6. Smt. Janabai Baliram Patil Age Adult, Occ. Household, R/o. Patmoli, Tal. Panvel, Dist. Raigad.	]	
7. Pandharinath Janardhan Naik At Kon, Tal. Panvel, Dist. Raigad	]	 Appellants
V/s.		
Special Land Acquisition Officer, Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.2468 OF 2006

1. The State of Maharashtra, Through the Special Land Acquisition Officer, Upper Godavari Project, Nashik	]	
2. The Executive Engineer, Nandur Madhameshwar Project, Nashik Division, Nashik, Dist. Nashik.	]	 Appellants
V/s.		
1. Mahadu Shankar Borade	]	
2. Smt. Satyabhama Thakaji Borade	]	
3. Dattu Thakaji Borade	]	
4. Narayan Thakaji Borade	]	
5. Manisha Thakaji Borade	]	
Respondent No.1 for himself and as GPA holder for Respondent Nos.2 to 5.	]	
Age Major, Occu. Agriculturists, R/of Mukane, Tal. Igatpuri, Dist. Nashik.	]	 Respondents

ALONG WITH
FIRST APPEAL NO.914 OF 2003

Mahadeo Ramji Koli (Since Deceased),	]
Through LRs :-	]
1/1. Kanha Mahadeo Koli	]
1/2. Ganubai Mahadeo Koli (Deleted)	]
1/3. Suresh Mahadeo Koli	]
1/4. Baliram Mahadeo Koli (Since Deceased)	]
Through LRs :-	]
1/4(a) Parvati Baliram Koli	]
Age 45 Yrs., Occ. Household	]
1/4(b) Bhushan Baliram Koli	]
Age 19 Yrs., Occ. Student	]
1/4(c) Umesh Baliram Koli	]
Age 17 Yrs., Occ. Student	]
1/4(d) Rupali Gajanan Koli	]
Age 26 Yrs., Occ. Household	]
All residing at Post Ulve, Tal. Panvel,	]
Dist. Raigad.	]
1/4(e) Vandana Sharad Koli	]
Age 23 Yrs., Occ. Household	]
R/at Kombalbhuje, Post Ulve,	]
Tal. Panvel, Dist. Raigad.	]
1/5. Janabai Chandrakant Koli	]
1/6. Hiraji @ Hiranman Mahadeo Koli	]
1/7. Ramdas Mahadeo Koli	]
1/8. Savitribai Gana Koli	]
1/9. Ramubai Kana Koli	]
1/10. Chandrakant Mahadeo Koli	]
Appellant Nos.1 to 4, 6, 7, 9 and 10	]
residents of Ganeshpuri, Tal. Panvel,	]
Dist. Raigad.	]
Appellant No.5 resident of Diwale,	]
Post Belapur, Dist. Thane.	]
Appellant No.8 resident of Kombadbhuje,	]
Post Ulva, Tal. Panvel, Dist. Raigad.	]
2. Krishna Nathuram Koli	]
3. Krishna Sukir Koli (Since Deceased)	]
Through LRs :-	]

3(a) Pralhad Krishna Koli	]	
Age 39 Yrs., Occ. Service	]	
3(b) Suresh Krishna Koli	]	
Age 38 Yrs., Occ. Service	]	
3(c) Raju Krishna Koli	]	
Age 36 Yrs., Occ. Service	]	
All residing at E/4, Motilal Rahiwashi	]	
Sangh, Amirbag No.2, P.Y. Thorat Marg,	]	
Chembur, Mumbai – 400 089.	]	
4. Sahadeo Changa Koli	]	
5. Jombai @ Janabai Gana Koli	]	
6. Havalubai Nathu Koli	]	
7. Changuna Bhagwan Koli (Since Deceased),	]	
Through LRs :-	]	
7/1 Pravin Bhagwan Koli	]	
Age 30 Yrs., Occ. Fishery	]	
7/2 Sunil Bhagwan Koli	]	
Age 22 Yrs., Occ. Fishery	]	
7/3 Smt. Manjula Pramod Koli	]	
Age 35 Yrs., Occ. Household	]	
7/4 Ganga Manohar Koli	]	
Age 32 Yrs., Occ. Household	]	
7/5 Chitra Somnath Koli	]	
Age 29 Yrs., Occ. Household	]	
All residing at Ganeshpuri, Tal. Panvel,	]	
Dist. Raigad.	]	
8. Bebi Ramnath Koli	]	
9. Padmakar Nathu Koli	]	
10. Kamal Nathu Koli	]	
All Adults, residents of Ganeshpuri,	]	
Post Ulve, Tal. Panvel, Dist. Raigad.	]	 Appellants
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

ALONG WITH

FIRST APPEAL NO.921 OF 2007

The State of Maharashtra,	]	
Through the Special Land Acquisition	]	
Officer, Metro Centre No.1, Panvel,	]	
Tal. Panvel, Dist. Raigad.	]	 Appellant

V/s.

Aatmaram Kashinath Pawar (Since Deceased),	]	
Through LRs -	]	
1. Hausha Aatmaram Pawar	]	
Age 35 years	]	
2. Abhimanyu Aatmaram Pawar	]	
Age 24 years	]	
3. Smt. Gulabbai Dharma Patil	]	
Age 44 years	]	
4. Smt. Radhabai Yadav Patil	]	
Age 39 years	]	
5. Smt. Renuka Hanuman Patil	]	
Age 25 years	]	
6. Smt. Subhadra Haribhau Patil	]	
Age 46 years	]	
All R/o. Kopar (Koli), Tal. Panvel, Dist. Raigad.	]	 Respondents

ALONG WITH

FIRST APPEAL NO.2468 OF 2007

Aatmaram Kashinath Pawar (Since Deceased),	]	
Through LR Hausha Aatmaram Pawar	]	
Adult, R/o at Kopar (Koli), Tal. Panvel, Dist. Raigad	]	 Appellant

V/s.

1. The State of Maharashtra	]	
2. Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	
3. Abhimanyu Aatmaram Pawar, Adult	]	
4. Gulabbai Dharma Patil, Adult	]	
5. Radhabai Yadav Patil, Adult	]	
6. Renuka Hanuman Patil, Adult	]	
7. Subhadra Haribhau Patil, Adult	]	
Respondent Nos.3 to 7 – all residing at	]	
Kopar(Koli), Tal. Panvel, Dist. Raigad.	]	 Respondents

ALONG WITH

FIRST APPEAL NO.1340 OF 2007

Changa Halya Patil, (Since Deceased),	]	
By LRs :-	]	
1/A. Smt. Maibai Changa Patil	]	

1/B. Vinod Changa Patil	]	
1/C. Lata Dildar Patil	]	
All residing at Kopar, Tal. Panvel,	]	
Dist. Raigad.	]	 Appellants
V/s.		
Special Land Acquisition Officer,	]	
Metro Centre No.1, Panvel, Dist. Raigad.	]	 Respondent

Ms. Anamika Malhotra, A.G.P., for the Appellants-State in *FA/1954/2005; FA/1955/2005; FA/1956/2005; FA/1957/2005; FA/1958/2005; FA/1959/2005; FA/1960/2005; FA/1961/2005; FA/31/2005; FA/1625/2003; FA/2468/2006 & FA/921/2007* and for the Respondent-State in *FA/1882/2006; FA/1883/2006; FA/1884/2006; FA/2290/2006; FA/1665/2006; FA/3147/2006; FA/914/2003; FA/2468/2007 & FA/1340/2007.*

Mr. Shriram S. Kulkarni for the Respondents in *FA/1954/2005; FA/1955/2005; FA/1956/2005; FA/1957/2005; FA/1958/2005; FA/1959/2005; FA/1960/2005; FA/1961/2005; FA/31/2005; FA/1625/2003; FA/2468/2006 & FA/921/2007* and for the Appellants in *FA/1882/2006; FA/1883/2006; FA/1884/2006; FA/2290/2006; FA/1665/2006; FA/3147/2006; FA/914/2003; FA/2468/2007 & FA/1340/2007.*

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

RESERVED ON : 7TH SEPTEMBER 2016.

PRONOUNCED ON : 22ND SEPTEMBER 2016.

JUDGMENT :

1. As all these appeals raise common questions of facts and law, they are heard together and being decided together by this common Judgment.

2. The challenge in these appeals is to the Awards under Section 18 of the Land Acquisition Act, 1894, (*hereinafter referred to as "the said Act"*). They pertain to the lands situate at Village Koli-Kopar, Taluka Panvel, District Raigad, which were notified on 3rd February 1970, under Section 4(1) of the said Act, for acquisition for the public purpose of setting up a satellite city of New Bombay.

3. First Appeal Nos.1954 of 2005, 1955 of 2005, 1956 of 2005, 1957 of 2005, 1958 of 2005, 1959 of 2005, 1960 of 2005 and 1961 of 2005 are preferred by the State of Maharashtra and they take an exception to the common Judgment and Award dated 19th April 2000, passed by reference court of Additional District Judge, Raigad-Alibag in Land Acquisition Reference Nos.78/1987, 81/1987, 83/1987, 88/1987, 90/1987, 105/1987, 108/1987 and 594/1987. In these appeals, the market value of the lands has been fixed @ Rs.10/- per square meter, with the grant of statutory benefits under Sections 23(1)-A, 23(2) and 28 of the Act. First Appeal Nos.1665 of 2006, 1882 of 2006, 1883 of 2006, 1884 of 2006, 2290 of

2006, 914 of 2003, 3147 of 2006, 1340 of 2007 and 2468 of 2007 are the cross appeals preferred by the original claimants for enhancement of compensation amount @ Rs.25/- per square meter.

4. First Appeal No.31 of 2005 preferred by the State Government is directed against the Judgment and Award dated 30th September 2003 passed by the reference court of Civil Judge, Senior Division at Raigad in L.A.R. No.38 of 2000, in which the market value of the land has been fixed @ Rs.11/-, along with all statutory benefits. First Appeal No.1665 of 2006 is the cross appeal filed therein by the claimants seeking enhancement of compensation amount @ Rs.25/- per square meter.

5. First Appeal No.921 of 2007 preferred by the State Government is directed against the Judgment and Award dated 20th January 2003 passed by the reference court of Joint Civil Judge, Senior Division, Raigad in L.A.R. No.45 of 2000, fixing the market value @ Rs.11/- per square meter, along with all statutory benefits. First Appeal No.2468 of 2007 is the cross appeal preferred by the claimants therein seeking enhancement of compensation @ Rs.25/- per square meter.

6. For the sake of convenience, in order to understand the exact position of the parties, the appeals preferred by them, the area of the

lands owned by the claimants, the rate of market value claimed by them and as awarded by the reference court, it would not be out of place to give these details in the chart form as under :-

Village : Koli-Kopar							
Sr. No.	Name of the Party	L.A.R. No.	F.A. No.	Cross Objection with F.A. No.	Rate Claimed (In Rs.)	Rate Granted (In Rs.)	Area (Sq. Mtrs.)
1	The State of Maharashtra Vs. Manohar Patil	78/1987	1954/2005	XOBST/21739/2011	25	10	4375
2	The State of Maharashtra Vs. Gopal Arjun Patil	38/2000	31/2005	FA/1665/2006	25	11	22350
3	Haribhau Balaram Patil Vs. The State of Maharashtra	105/1987	1959/2005	FA/1882/2006	25	10	14370
4	Smt. Tulsabai Balu Patil Vs. The State of Maharashtra	88/1987	1957/2005	FA/1883/2006	25	10	9350
5	Rambhau Bhandu Patil Vs. The State of Maharashtra	108/1987	1960/2005	FA/1884/2006	25	10	9220
6	The State of Maharashtra Vs. Gangaram Pawar	81/1987	1955/2005	FA/2290/2006	25	10	17250
7	The State of Maharashtra Vs. M.R. Koli and Ors.	83/1987	1956/2005	FA/914/2003	25	10	54100
8	The State of Maharashtra Vs. Janardhan Naik	90/1987	1958/2005	FA/3147/2006	25	10	5625
9	The State of Maharashtra Vs. Changa H. Patil	594/1987	1961/2005	FA/1340/2007	25	10	16375
10	The State of Maharashtra Vs. Atmaram Kashinath Pawar	45/2000	921/2007	FA/2468/2007	25	11	19475

7. At the time of hearing of these appeals, learned A.G.P. appearing for the State Government and learned counsel for the claimants have taken the Court through the evidence, both, oral as well as documentary, and the findings recorded by the reference court.

8. According to learned A.G.P., having regard to the location of Village Koli-Kopar, which is situate far away from Mumbai-Pune National Highway, and there being a creek between Village Koli-Kopar and Panvel, the market value @ Rs.10/- and Rs.11/- per square meter, as fixed by the reference court, is considered to be excessive by the State Government and hence the appeals are preferred to challenge the same. However, it is fairly submitted by learned A.G.P. that, in respect of the lands situate at Village Wadghar, the Apex Court has, in the case of *Ambaji Dharma Pardeshi and Ors. Vs. State of Maharashtra*, by order dated 2nd July 2013 passed in Civil Appeal Nos.5088-5089 of 2013, arising out of SLP(C) Nos.3830-3831/2012), fixed the market value of the lands @ Rs.25/- per square meter and, admittedly, Village Wadghar is adjacent to Village Koli-Kopar, as held by this Court in its Judgment dated 21st June 2011 in *State of Maharashtra Vs. Krishna Goma Mhatre (Deceased), Through Anant Krishna Mhatre*, in First Appeal No.370 of 1999, along with other connected matters.

9. The entire emphasis and reliance of learned counsel for the claimants is also on these two Judgments; one that of the Supreme Court in the case of *Ambaji Dharma Pardeshi (supra)* and of this High Court in the case of *Krishna Goma Mhatre (supra)*. It is urged that in the case of *Krishna Goma Mhatre (supra)*, this Court has clearly held that, the Village Koli-Kopar is adjacent to Village Wadghar. It is urged that in the case of *Ambaji Dharma Pardeshi (supra)*, this Court has, vide its Judgment dated 8th April 2011, fixed the market value @ Rs.10/- per square meter in respect of the lands situate at Wadghar, which was found to be too inadequate by the Apex Court, and after considering the proximity of those lands to National Highway No.4, Panvel-Sion Highway and the construction of Thane Creek Bridge, which brought various villages, including Village Roadpali (Kolhekar) close to Bombay, the Apex Court has enhanced the said market value to Rs.25/- per square meter. Even though the claimants therein had sought compensation @ Rs.25/- per square meter only. Having regard to the fact that this Court and the Apex Court has awarded compensation @ Rs.25/- per square meter in respect of the identically situated parcels of land, the Hon'ble Supreme Court was fully convinced that there was every justification for awarding higher compensation to the claimants therein at the rate of Rs.25/- per square meter.

10. It is submitted by learned counsel for the claimants that, the Apex Court has, in this decision, also taken note of its earlier decision in *Sabha Mohammed Yusuf Abdul Hamid Mulla (Dead) by LRs and Ors. Vs. Special Land Acquisition Officer and Ors.*, (2012) 7 SCC 595, wherein, for the lands situate at Village Roadpali, the Apex Court restored the market value @ Rs.25/- per square meter, as fixed by the Trial Court, having regard to the geographical situation of the land, which is having NA potential. Thus, according to learned counsel for the claimants, in this case also, the market value of the lands is required to be enhanced and fixed @ Rs.25/- per square meter, so as not only to bring it at par with the market value fixed for the similarly situated lands in the adjacent villages, but also on the count that it can be the just, legal and proper compensation for the lands acquired by the State Government for public purpose.

11. Having heard learned A.G.P. and learned counsel for the claimants, it is clear that issue involved in these appeals, both, on factual and legal aspect, is already set at rest and is no more res-integra. It is common ground between the parties, during the years 1967 and 1972, vast tracks of lands in about 96 villages in the Districts of Raigad and Thane were notified for acquisition for public purposes for setting up the satellite city of New Bombay. The Apex Court has also, in the case of *Avinash Dhavji*

Naik Vs. State of Maharashtra, (2009) 11 SCC 171, taken judicial notice of this acquisition process. The notification to that effect was issued on 3rd February 1970, under Section 4(1) of the said Act. The Special Land Acquisition Officer passed the Award dated 20th September 1986, thereby determining the market value of the acquired land in the range of Rs.1/- to Rs.1.50 per square meter. Being dissatisfied with the rate at which market value was determined by the Special Land Acquisition Officer, plethora of References came to be filed in the Court for determination of the just amount of compensation. After the Reference Court enhanced the compensation amount in the range of Rs.8/- to Rs.12/- per square meter, the matters reached upto this Court and subsequent thereto, some of those References reached upto the Supreme Court also.

12. The Apex Court has, in the case of *Sabhia Mohammed Yusuf Abdul Hamid Mulla (supra)*, taken note of these various decisions, like, the decisions of this Court in *Shashikant Krishanji Vs. Land Acquisition Officer, 1993 BCJ 27*, and *Nama Padu Huddar Vs. State of Maharashtra, 1994 BCJ 316*, wherein, this Court has granted compensation @ Rs.25/- per square meter to the land situate at Village Taloja, acquired vide notification dated 3rd February 1970.

13. The Apex Court also took note of the decision in the case of *State*

of Maharashtra Vs. Chandrakant Bhiva Patil, in First Appeal No.423 of 1996, by order dated 16th September 2004, wherein this Court has awarded compensation @ Rs.25/- per square meter to the land situate at Village Nawada, acquired by the same notification dated 3rd February 1970.

14. Further, Apex Court's attention was also drawn to the decision in the case of *State of Maharashtra Vs. Laxman Bhiva Patil, in First Appeal No.1074 of 1989, by order dated 9th August 2004*, wherein this Court has granted the market rate of Rs.25/- per square meter to the land situate at Village Pendhar, Taluka Palghar, acquired vide the same notification dated 3rd February 1970.

15. In all these decisions, Apex Court noted that, this Court has taken judicial notice of the fact that the industrial growth in and around Mumbai has started with rapid strides from the year 1965 onwards. In fact, the growth is by leaps and bounds in the magnitude of industries as well as number of industries and virtually all the industries of the country are represented on the industrial estates scattered on this Highway. It was also an admitted position that, as the scope for growth in the direction of Pune and Nasik has been virtually exhausted, that growth now lies in the direction of the Districts of Raigad and Ratnagiri. As a result, judicial

notice was taken of the fact that almost all the areas in the proximity of Mumbai have been growing at phenomenal rate and Panvel is no exception to this feature of rapid growth. It was also recognized that on the highway of Pune-Mumbai, on all sides, the facility of electric supply is available as also of abundant water supply. All the lands also are having suitable access roads to the said highway, including the lands which are farthest from the highway. It was also recognized in all these decisions that, civic amenities were available to the Panvel town since prior to 1970. The construction of Thane Creek Bridge brought various villages close to Mumbai. There are several industrial areas and estates situate near the National Highway and, thus, these lands are enjoying the transport and communication facility. At the time of acquisition, though the lands were agricultural under paddy cultivation, they were found ready-made for non-agricultural use and the only obstacle was absence of conversion. It was, accordingly, observed that the non-agricultural potentiality of these lands cannot be disputed and the judicial notice thereof has to be taken while fixing the correct market value.

16. Thus, it can be categorically said that, as and when the lands were found to be virtually identically situated in the same area, bearing similar topographical and physical characteristics, covered by the same notification dated 3rd February 1970, more or less, the identical market

value @ Rs.25/- per square meter was fixed mostly in all the References, which reached either to this Court or to the Apex Court, as noted above.

17. In the case of *Sabhia Mohammed Yusuf Abdul Hamid Mulla (supra)*, the lands were situate at Village Roadpali (Kolhekar) in Taluka Panvel. The Land Acquisition Officer has fixed the market value of the acquired land in the range of Rs.1.75 per square meter to Rs.2.50 per square meter. This Court enhanced it @ Rs.18/- to Rs.20/- per square meter. When the matter reached to the Apex Court, the Apex Court has, having regard to the factors like existing geographical situation of the land, existing use of the land, already available advantages, like, proximity to National or State Highway or road and/or developed area and market value of the other lands situate in the same locality/village/area or adjacent area, very near to the acquired land and considering the criteria laid down in its earlier decisions, held that the market value @ Rs.25/- per square meter, as fixed by the Reference Court, was just and correct. It was observed that the market value was fixed having regard to the proximity of the land to the National Highway No.4, Panvel-Sion Highway and the construction of Thane Creek Bridge, which brought various villages, including Village Roadpali, close to Mumbai. It was further held by the Apex Court that the Reference Court has rightly noted that these civil amenities were available to Panvel Town since 1970 and industrial

estates have been developed at Taloja and Panvel. The acquired land was also available for non-agricultural use. It was found by the Apex Court that this Court had not adverted to these factors and reduced the amount of compensation by mechanically applying the distance criteria i.e. distance of the acquired land from Mumbai-Pune Highway, and, therefore, the said Judgment and Order cannot be sustained. Accordingly, the Hon'ble Supreme Court allowed the appeals and restored the order passed by the Reference Court for payment of compensation @ Rs.25/- per square meter, with all statutory benefits.

18. In the case of *Ambaji Dharma Pardeshi (supra)*, the lands acquired were situate at Village Wadghar, Taluka Panvel. They were acquired under the same notification dated 3rd February 1970 and for the same purpose of implementing the New Bombay Project. The Reference Court awarded the compensation @ Rs.15/- per square meter, taking note of the evidence led therein, bringing on record the above referred factors of the industrial development in the said area and the proximity of the land to the National and State Highway. The Reference Court also considered the NA potentiality of the land in question. This Court, however, relying on the Judgment in *Avinash Dhavji Naik (supra)*, wherein, the compensation was determined at the rate of market value of Rs.10/- per square meter in respect of the land situate at Village Vahal, reduced the compensation

amount in this case also to the tune of Rs.10/- per square meter, dismissing the Cross Objections filed by the claimants therein.

19. When the matter reached to the Apex Court, it noted the number of its earlier decisions, referred to, in *Sabha Mohammed Yusuf Abdul Hamid Mulla (supra)*, wherein, the compensation @ Rs.25/- per square meter was fixed. The Apex Court also took cognizance of several Judgments of the Bombay High Court, whereby the land owners of various villages were granted compensation @ Rs.25/- per square meter. The Apex Court then also made Reference to its earlier decisions laying down criteria for determination of the market value and held as under :-

“Although the judgment in Avinash Dhavaji Naik case (supra) was not noticed in Sabha Mohammed Yusuf Abdul Hamid Mulla v. Special Land Acquisition Officer (supra), keeping in view large number of judgments and orders passed by the High Court in relation to the acquisition of similar parcels of land whereby market value of the acquired land was fixed at Rs.25/- per sq.mtr., it must be held that the appellants are entitled to similar relief.”

20. In this case, the Apex Court has also noted that, it was conscious of the fact that in the Claim Petition filed before the Reference Court, the

appellants had claimed compensation @ Rs.20/- per square meter only, but having regard to the fact that the High Court and the Apex Court had awarded compensation @ Rs.25/- per square meter in respect of identically situated parcels of land, Supreme Court felt convinced that there is every justification for awarding higher compensation to the appellants. Accordingly, the appeals were allowed. The impugned order passed by this Court, reducing compensation to the tune of Rs.10/- per square meter, was, accordingly, set aside and it was held that the appellants therein are entitled to compensation @ Rs.25/- per square meters.

21. It is significant to note that, in this Judgment of *Ambaji Dharma Pardeshi (supra)*, with a view to do justice to other land owners of Village Wadghar, whose lands were acquired along with that of the appellants, but who might not have been able to approach the Reference Court, the High Court and the Apex Court due to sheer ignorance, poverty and other similar handicaps, the Apex Court has directed that they shall also be paid compensation @ Rs.25/- per square meter, with all statutory benefits and interest. This direction was given keeping in view the philosophy underlying Section 28A of the Act, as interpreted in the case of *Ramakrishna Rao Vs. The Singareni Collieries Company Ltd. and Anr.*, (2010) 10 SCC 650.

22. In the back-drop of this legal position, now coming to the facts of this case, the lands in this case are, admittedly, situate at Village Koli-Kopar, which is in the same belt. This Court has, in its Judgment in *Krishna Goma Mhatre (supra)*, which also pertains to the acquisition of lands situate at Village Koli-Kopar, considered its location and in paragraph Nos.16 and 17 of its Judgment, noticed the location of Village Koli-Kopar as follows :-

“Village Koli-Kopar is situated much closer to Mumbai-Pune National Highway as compared to the Village Dapoli, which is on southern side of Village Koli-Kopar. On south-west side of Village Koli-Kopar, there is Village Wadghar, and on western side of the village, there are villages Pargaon and Ulwe. Village Wadghar is on the southern side of the Village Koli-Kopar, which is also separated from Panvel by the Panvel creek.”

23. In paragraph No.18, it was further observed that, “Village Koli-Kopar cannot be treated differently from the adjacent Village Wadghar”. Accordingly, it was held that, *“if in respect of Village Wadghar, this Court has fixed the market value @ Rs.12/- per square meter, the same market value is required to be fixed in respect of the lands situate at Village Koli-Kopar also”*. Accordingly, the market value was enhanced to Rs.12/- per square meter. [Emphasis Supplied]

24. Thus, in this case, it is categorically held by this Court that, Village Wadghar is just adjacent to Village Koli-Kopar and Village Koli-Kopar cannot be treated differently from adjacent Village Wadghar. In view thereof, as the market value of the lands situate in Village Wadghar has been enhanced by the Apex Court, in the case of *Ambaji Dharma Pardeshi (supra)*, to Rs.25/- per square meter, it naturally follows that the market value of the lands at Village Koli-Kopar has to be accordingly fixed and enhanced to Rs.25/- per square meter. There can be no option or two opinions about this proposition, as both the propositions are finding their force from the decisions of this Court and the Apex Court. It is significant to note that all the factors, which were taken note of by the Apex Court in fixing the market value @ Rs.25/- per square meter of the lands at Village Wadghar, are equally applicable in the case of the lands at Village Koli-Kopar also, as both the villages are just adjacent to each other and this Court itself has held that there is no reason to treat them differently.

25. In the present case, through the evidence of the claimants and the Valuer Manjiri Joshi, it is also brought on record that Village Koli-Kopar is just adjacent to Village Wadghar and it is enjoying same amenities, same facilities and same benefits, like, that of Village Wadghar. Therefore, if the lands at Village Wadghar are given compensation @ Rs.25/- per square meter by the Apex Court itself, then, it follows that the lands at Village

Koli-Kopar should also get the same rate of compensation. In this respect, the State Government has also not shown any ground to discriminate or differentiate between the rate of compensation to be awarded to the lands at Village Koli-Kopar and the lands at Village Wadghar.

26. In view thereof, all these appeals preferred by the State Government, seeking reduction of the market value of the acquired lands, need to be dismissed and, accordingly, stand dismissed.

27. Whereas, the appeals preferred by the claimants, seeking enhancement of the compensation amount to Rs.25/- per square meter, are allowed. The State Government is directed to pay the balance amount of compensation to the claimants, with all statutory benefits and interest, within a period of three months from the date of passing of this order. The claimants are also held entitled to the proportionate costs of the References as well as the First Appeals.

28. On the lines of the directions given by the Apex Court in the above two decisions of *Ambaji Dharma Pardeshi (supra)* and *Sabha Mohammed Yusuf Abdul Hamid Mulla (supra)*, it is deemed proper to issue following further directions :-

- (i) Within one month from today, the Special Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tehsildar or an equivalent rank, to get in touch with the landowners and/or their legal representatives and inform them about their entitlement to receive the balance amount of compensation.
- (ii) The officers concerned shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalized or scheduled bank, in case they already do not have such an account.
- (iii) The account numbers of the landowners and/or their legal representatives should be furnished by the officer concerned to the Land Acquisition Officer within a period of one month.
- (iv) Within next one month, the Special Land Acquisition Officer shall deposit the amount of

compensation along with other statutory benefits in the bank accounts of the landowners and/or their legal representatives in the form of account payee cheques.

[DR. SHALINI PHANSALKAR-JOSHI, J.]