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FA-218-1993
A/W. FA-219-1993
(sr. no.206 & 207)
Thursday,7.4.2016

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 218 OF 1993
ALONGWITH
CROSS-OBJECTIONS (ST) NO. 18933 OF 1993

FIRST APPEAL NO. 219 OF 1993
ALONGWITH
CROSS-OBJECTIONS (ST) NO. 19063 OF 1993

The State of Maharashtra
(Through the Special Land
Acquisition Officer, Metro
Centre No.8, Panvel, Raigad)

.....Appellant
(Orig. Opponent)

V/S.

Shri. Dhaya Mahadu Patil
(since deceased, through his legal
heirs)

1) Gurunath Dhaya Patil,
2) Shantaram Mahadu Patil,
3) Gajanan Dhaya Patil
All residing at Motha-Khanda,
Panvel, Taluka-Panvel

.....Respondents
(Orig. Claimants)

* * * * *

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

Mr. S.M. Sabrad, Advocate for respondent no.3 and for appellant in
Cross-objections.

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

7th April, 2016.

JUDGMENT :-

1). This is a common order on the above two appeals and the cross-objections filed therein. The appellant in both the appeals is the State of Maharashtra. It challenges enhancement by the Reference Court of the compensation payable to the respondents for acquisition of their lands. The respondents to both the appeals are same. In First Appeal No. 218 of 1993, they are the respondents in their own right, whereas in First Appeal No. 219 of 1993, they are respondents as the heirs of their deceased father. The respondents had filed references under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation for their land.

2). First Appeal No. 218 of 1993 arises out of the judgment and order dated 31st August, 1991 passed by the Reference Court in respect of the compensation awarded for land bearing Survey No.670 Hectares-0 totally admeasuring 9865 sq.mts situate at Motha Khanda, Panvel. Out of that land, the respondents were entitled to a share to the extent of 7892 sq.mts. The Special Land Acquisition Officer had awarded compensation at the rate of Rs.5.55 per sq.mtr. The demand made by the respondents was at the rate of Rs.30 per sq.mtr. The Reference Court enhanced the compensation to the rate of Rs.16/- per sq.mtr. Respondent no.3 has filed cross-objections demanding compensation at the rate of Rs.30/- per sq.mtr.

3). Appeal No.219 of 1993 also arises out of the judgment and order dated 31st August, 1991 passed by the Reference Court in respect of compensation awarded for land bearing Survey No. 677 Hissa No.4 totally admeasuring 6610 sq.mts situate at Motha Khanda, Panvel. Out of that land, the respondents were entitled to a share to the extent of 5,290 sq.mts. The Special Land Acquisition Officer had awarded compensation at the rate of Rs.5.55 per sq.mtr. The demand made by the respondents was at the rate of Rs.30 per sq.mtr. The Reference Court enhanced the compensation to the rate of Rs.16 per sq.mtr. Respondent no.3 has filed cross-objections demanding compensation at the rate of Rs.30 per sq.mtr.

4). Mr. Patil, the learned Government Pleader, refers to decision of Division Bench of this Court in **State of Maharashtra Vs. Prakash Vasudeo Deodhar, reported in 2008 (4) Mh.L.J. page 897** to submit that in companion appeals, the Division Bench has fixed compensation payable in respect of the lands in the same area i.e. Motha Khanda, Panvel by determining the market value depending upon the distance of the properties from the National Highway. For the lands falling within 750 sq.mts of the National Highway, the compensation awarded is at the rate of Rs. 25 per sq.mtr. For the lands falling within 750 to 1500 sq.mts of the National Highway, the compensation awarded is at the rate of Rs.23/- per sq.mtr and for the land falling beyond 1500 sq.mts of the National Highway, it is at the rate of Rs.21/- per sq.mtr. Perusal of the record shows that, there is no evidence as regards the distance of the two lands in question from the National Highway. In that

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circumstance, the compensation awarded for the land falling beyond 1500 sq.mts of the National Highway can be reasonably considered as proper compensation payable to the respondents. Hence, the First Appeals by the State of Maharashtra are dismissed. The Cross-objections are partly allowed to hold that the respondents are entitled to get compensation at the rate of Rs.21/- per sq.mtr. The appellant shall calculate the compensation on that basis and pay the same to the respondents within 6 months from today.

(SMT. R.P. SONDURBALDOTA, J)