

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

FIRST APPEAL NO. 93 OF 1994

- 1)** Gurunath Dhaya Patil, Adult
2) Shantaram Mahadu Patil, Adult
Both resideing at Motha Khanda,
Panvel, Taluka Panvel, District – Raigad. ... Appellants

(Original Claimants No.1/1 and 1/3)

*[Since deceased through his legal heirs and legal
representatives]*

- 2a)** Waman S. Patil,
R/o. Moth Khanda, Post. Tal. Panvel,
Dist. Raigad.
2b) Shima Tukaram Patil
at Post Balvali, Tal. Panvel, Dist. Raigad ... **Appellants.**

*[Amendment carried out as per the order of Hon'ble Court
dtd. 21.04.2016.]*

versus

- 1)** The Special Land Acquisition Officer,
Metro Centre, Panvel, Taluka Panvel,
District : Raigad
2) Shri. Gajanan Dhaya Patil, Adult,
Residing at Motha Khanda, Panvel,
Taluka : Panvel, District : Raigad ... **Respondents**

(No.1 original opponent and No.2 original
claimant 1/2)

Mr. V. A. Gangal, Advocate for the appellants.
Mr. A. R. Patil, A. G. P. for the respondent / State.

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

Date : 6th May, 2016

JUDGMENT :

1. This appeal has directed against the judgment and order dated 31st August, 1991 passed by District Court, Raigad in Land Acquisition Reference No.486 of 1987. The appeal has been filed by only two of the claimants i.e. original claimant no.1/1 and 1/3, whose share in the land acquired comes to 7,398 sq. mtrs. The Reference Court has granted compensation to them at the rate of Rs.16/- per sq. mtr. The appellants contend that they entitled to compensation at the rate of Rs.30/- per sq. mtr. and the statutory benefits thereon under the Land Acquisition Act.

2. The land in question is Survey No.617, Hissa No. 0, totally admeasuring 9,865 sq. mtrs. situate at Motha Khanda, Panvel. In the reference filed by the appellants, they had sought enhancement of the compensation on the ground that their land is situate within the extended municipal limits of Panvel. The topography of the land was a plain land. There was no water logging and therefore no development cost was required to be incurred therefor. According to them, the infrastructure facilities like water-supply, electricity are easily available to the lands as they are situated within the extended limits of Panvel Municipality. Also the civic amenities like Primary School, Health Centre, High-school and College are available within a walkable distance. The Bombay - Pune National Highway No.4, Sion - Panvel Highway and the Central Railway i.e. Diva-Panvel-Apta have been in existence since prior to 1970, which have acted as a catalyst for development

of the land under reference. In the circumstances, the compensation awarded by the Land Acquisition Officer at the rate of Rs.5.55 per sq. mtr. was meagre and the appellants were entitled to the market price at the rate of Rs.30/- per sq. mtr. The Reference Court accepted the contention of insufficiency of compensation and enhanced the same to Rs.16/- per sq. mtr. Not being satisfied with that the appellants have approached this Court.

3. Mr. Gangal, the learned advocate appearing for the appellants and Mr. Patil, the Additional Government Pleader submit that the Division Bench of this Court has already decided the issue of compensation payable in respect of the lands in the same area i.e. Motha Khanda, Panvel in its decision in ***State of Maharashtra vs. Prakash Vasudeo Devdhar reported in 2008(4) Mh. L. J. page 897.*** By that decision, the Division Bench has determined the market value depending upon the distance of the properties from the National Highway. For the lands falling within the distance of 750 sq. mts. from the National Highway, the compensation awarded is at the rate of Rs.25/- per sq. mtr., for the lands falling within the distance of 750 to 1500 sq. mts. of the National Highway, the compensation awarded is at the rate of Rs.23/- per sq. mtr. and the lands falling beyond 1500 sq. mts. of the National Highway, it is awarded at the rate of Rs.21/- per sq. mtr. In case of lands whose proximity to the National Highway is not established, the rate to be awarded is of Rs.21/- per sq. mtr. Perusal of the record shows that there is no evidence as regards the distance of the land in question from the National Highway. In

that circumstance, the appellants will be entitled to receive compensation at the rate of Rs.21/- per sq. mtr. Hence, the first appeal is partly allowed to hold that the appellants are entitled to get compensation at the rate of Rs.21/- per sq. mtr. for their share in the land under acquisition. The respondent shall calculate the compensation on that basis and pay the same to the appellants.

[Smt. R. P. SondurBaldota, J.]