

Amk

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 21 OF 2002

Eknath Sadashiv Kandpile

.. Appellant

Vs.

The State of Maharashtra

.. Respondent

Mr. Satish S. Raut for the Appellant.

Mr. A. R. Patil, Assistant Government Pleader for the Respondent-State.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. SARANG V. KOTWAL, JJ.**

DATE : 18th DECEMBER, 2017.

P. C. :

Heard.

The learned counsel for the parties state that the land of the appellant and the land of the landholders in the judgment in the case of **State of Maharashtra Vs. Prakash Vasudeo Deodhar and Ors.** was acquired by the same Section 4 notification that was issued on 03.02.1970. It is stated that the appeals in the case of Prakash Vasudeo Deodhar and several other claimants were decided by the Division Bench of this Court by a common judgment reported in **2008 (5) Bombay Cases Reporter 708**. It is submitted that by noting the fact that the land of the appellant herein falls within the distance of 750 to 1500 meters of the National Highway, the appellant would be entitled to compensation @ Rs.23/- per square meter. It is however stated on behalf of the appellant that in case higher compensation is granted to the claimants whose lands were acquired by the same section 4 notification, the right of the appellant to seek enhanced compensation by applying under the provisions of Section 28(A) of the Land Acquisition Act, 1984 should not be wiped out. It is stated that the appellant is ready to accept the compensation @ Rs.23/-

per square meter in terms of the judgment reported in **2008 (5) Bombay Cases Reporter 708**.

In view of the statements recorded hereinabove, we dispose of the Letters Patent Appeal for the reasons recorded in the judgment reported in **2008 (5) Bombay Cases Reporter 708** and with the direction against the State of Maharashtra to release enhanced compensation to the appellant @ Rs.23/- per square meter as early as possible and positively within four months. Since the appeal was dismissed in default on 15.03.2011 and an application for restoration of the same was belatedly made on 17.01.2014, the appellant would not be entitled to claim interest on the enhanced compensation for the period between 15.03.2011 and 17.01.2014. It is needless to mention that the appellant would be entitled to avail the remedy, if available to him in law, for seeking enhanced compensation. No order as to costs.

[SARANG V. KOTWAL, J.]

[SMT. VASANTI A. NAIK J.]