

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

FIRST APPEAL NO. 771 OF 1994

The State of Maharashtra
Through the Special Land Acquisition Officer
Metro Centre No.12, Panvel ...Appellant

Versus

Magan Ganu Patil (since deceased)
through his legal heirs & others. ...Respondents

.....

Mr.Yogesh Dabke, AGP for the Appellant-State.
Mr.Prashant Patil for Respondent Nos. 1/3 (iv).

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : AUGUST 10, 2017**

P.C.:

1. In this First Appeal the Judgment and Award dated 23.08.1991 passed by the learned Second Addl. District Judge, Raigad-Alibag, in Land Acquisition Reference No. 379 of 1987 is challenged.

2. The lands of the respondents situated at Village Valavali, Taluka Panvel, District Raigad were acquired by the appellant/State of Maharashtra for the purpose of development of CIDCO. A notification dated 03.02.1970 under Section 4 of the Land Acquisition Act, 1894,

thereby following notification under Section 6 of the Land Acquisition Act dated 03.11.1972, the Special Land Acquisition Officer valued the lands and passed an Award of Rs.46,865.70. The respondents have found that the rate of compensation in award was less and, therefore, they approached the District Collector, Panvel, Raigad. Thereafter, the respondents have filed a Land Reference No. 239 of 1987 before the District Court. On receiving the notice in the said Land Reference, the Special Land Acquisition Officer, Panvel appeared. He has submitted Written Statement and opposed the enhancement of the award. At the time of hearing of the Land Reference, one of the original claimants Tukaram Ganu Patil, who offered himself as a witness and demanded that the rate of compensation should be at the rate of Rs. 15 per sq.meter. A Valuer Shri Jeevan Kulkarni was also examined. After considering the evidence of both the parties, the trial Court partly allowed the Land Reference and passed the Award of Rs. 2,10,995.10 and the remaining order in respect of the benefits under Sections 23 (1) (a), 23 (2) and 28 of the Land Acquisition Act, 1894 given by the Special Land Acquisition Officer was maintained.

3. Being aggrieved by the said Land Reference and the Award, the appellant/State of Maharashtra preferred this First Appeal.

4. The point of determination arose is as follows:

Q. Whether an amount of enhancement of the compensation is illegal, excessive and exorbitant and is to be set aside?

A. No.

5. Learned counsel for the appellant has submitted that the Special Land Acquisition Officer has fixed the market value of the lands at the rate of Rs. 5500 -7500/- per acre and the reference Court has granted the compensation at the rate of Rs. 12/- per sq. meter. The total area of the lands acquired is 18,770 square meter and, therefore, the market value of the lands come to Rs. 2,25,240/-, which is very excessive.

6. Per contra, learned counsel for respondent nos. 1/3 (iv) has supported the Judgment and Award dated 23.08.1991 passed by the learned District Judge, Panvel. He has submitted that the acquired lands are from Village Valavali, Panvel, District -Raigad, which are acquired for the CIDCO. He has further submitted that the cases of the compensation of the lands from Village Valavali, Taluka-Panvel, District-Raigad are covered under the **Judgment and Order dated 12.03.2008 passed by the learned Single Judge of this Court in First Appeal No.**

495 of 1992 (The State of Maharashtra Versus Shri. Krishna Kamalya Choudhari)

7. Perused the judgment. In the evidence, Tukaram Patil has stated that his land in Village Valavali, Taluka-Panvel, District Raigad is half k.m. away from the railway station and 3 k.m. away from Panvel City. The evidence of Valuer Shri Jeevan Kulkarni is also taken into account. He has considered the sale instances and has stated that the industries namely Amortex Industry and Jawahar Industrial Estate are near the acquired lands. The ratio laid down in the case of *State of Maharashtra Versus Shri. Krishna Kamalya Choudhari (supra)* is directly applicable to the present case, as the lands acquired in that cases are from Village Valavali, Taluka-Panvel, District Raigad, which were notified under the same notification dated 03.02.1970 under Section 4 of the Land Acquisition Act, 1894 for the purpose of CIDCO. The learned Single Judge of this Court has held that considering the developmental activities in the location of the lands nearness to the industrial zone, the market value of the said lands situated at Village Valavali, Taluka Panvel, District-Raigad is fixed at the rate of Rs.14/- per sq meter. In the present case, the rate of compensation has been granted at the rate of Rs. 12/- per sq.meter is less than at the rate of Rs.14/- per sq. meter.

8. In view of the above, the appeal preferred by the appellant/State of Maharashtra is dismissed.

(MRIDULA BHATKAR, J.)