

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

**FIRST APPEAL NO. 839 OF 1992**

The State of Maharashtra

....Appellant

V/s.

Prithviraj Narbheraj Bhansali (since decd.

Through legal heirs) :

Bhadrakumari Prithviraj Bhansali @ Karanjwala

(since decd. Through legal heirs) :

Dhanesh Prithviraj Bhansali @ Karanjwala & ors. ....Respondents

Mr. Y.Y. Dabke, AGP for the State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 13<sup>th</sup> JUNE, 2019.**

**ORAL JUDGMENT.:-**

. The Appellant / State has challenged the judgment and Award dated 18/03/1992 in Land Acquisition Reference No.691/1986 passed by the IVth Additional District Judge, Raigad, Alibag.

2. The Government had acquired land admeasuring 39000 sq. mts situated at village Kegaon, Taluka Uran for Naval Armament Depot. The notification under Section 4 was issued on 28/9/1980 and published in Government Gazette dated 09/10/1980. The Land Acquisition Officer by an award dated 22/09/1986 assessed the market value of the land at the rate of Rs.1.49 per sq.mtr. Being dissatisfied with the award, the original respondent nos.1 and 2 who are the

owners of the land, filed a reference under Section 18 claiming enhanced compensation at the rate of Rs.50 per sq.mtr. The Reference Court, upon considering the evidence adduced by the respective parties, partly allowed the Reference and determined the market value of the land at Rs.14 per sq.mtr. Being aggrieved by the decision of the Reference Court, the Appellant / State has preferred this appeal.

3. Heard Mr. Y.Y. Dabke, the learned AGP for the appellant. I have perused the records.

4. It is well settled that the market rate of the acquired land has to be fixed keeping in mind the following factors (i) Existing geographical location of the acquired land (ii) existing use of the land (iii) Available advantageous vis-à-vis disadvantageous factors possessed by the acquired land (iv) Market value of similar land at the proximate time and locality.

5. In the instant case, it is not in dispute that the acquired land is situated at Kegaon, which is at a distance of about 5 kms. from Tehsil Headquarters Uran. It is not in dispute that civic amenities like Post and Telegraph office, Banks, High Schools, Market, etc. are available in close proximity of the acquired land. The acquired land has frontage

on the road. The award of the land acquisition officer records that naval staff quarters /colony and naval shipyard are adjacent to the acquired land. The acquired land is at a distance of about 1 and half km. from Grindwell Company and is at a distance of about 1 hour travel time from Mumbai. The award further records that the acquired land had non-agricultural potentiality and is useful for building purpose. The evidence on record thus indicates that the acquired land is located in a developed locality and has construction potentiality.

6. The respondents / original claimants have claimed that the market rate of the acquired land was Rs.50 per sq. mtr. In support of their claim, the respondents had examined a valuer CW2 – Jeevan Narayan Kulkarni and also relied upon two awards dated 22.04.1988 passed by the Reference Court in LAR No.8/1984 and 46/1982. The Reference Court has not relied upon the award in LAR 46/1982 mainly on the ground that the land which was the subject matter of the said LAR was smaller in size and had several advantageous factors and was therefore not comparable.

7. The award in LAR No.8/1984 (Exhibit -19) is in respect of the land admeasuring 10440 sq. meters which was acquired vide

notification dated 03/02/1970 for Trans Harbour Panvel and Trans Harbour Thane and Uran for development of New Bombay Project. The said land is at a distance of about 3 kms from Uran and 7 kms away from the acquired land. By the judgment and award at Exhibit-19, the Reference Court had determined the market rate of the said land @ Rs.10/- per sq. mtr as on the date of Section 4 notification i.e. 3/2/1970. The Reference Court has recorded that though the nature of the land is similar, the acquired land is more advantageously located as compared to the land which is the subject matter of the award at Exhibit-19. The Reference court has also taken note of the fact that the area of the acquired land is much larger as compared to the land which is the subject matter of the award at Exhibit – 19. After considering the advantageous as well as disadvantageous factors, the Reference Court has assessed the market rate of the acquired land at the rate of Rs.14 per sq. mtr.

8. The award at Exhibit–19 indicates that the market rate of similar land located in the same vicinity was Rs.10/- per sq. meter as in the year 1970. In the instant case, the notification under Section 4 was published in the official gazette almost about 10 years later. It is well known that the rapid development and high demand of land has

resulted in escalation of market value of the land. Considering the location, nature and potentiality of the acquired land, the Reference Court has fixed the market rate of the acquired land at Rs.14/- per sq. mt. In my considered view the valuation is not arbitrary or excessive. There are no cogent reasons to interfere with the impugned judgment and award.

9. Under the circumstances, and in view of discussion supra, the appeal has no merits and is accordingly dismissed.

**(SMT. ANUJA PRABHUDESSAI, J.)**