

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

FIRST APPEAL NO. 585 OF 1994

The State of Maharashtra	Appellant
V/s.	
Ramchandra Balchandra Mhatre	Respondent

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

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 13th JUNE, 2019.

ORAL JUDGMENT :

. The appellant herein has challenged the judgment and award dated 21/01/1993 in Land Acquisition Reference No.70/1988 passed by the Joint District Judge, Thane.

2. The Government had acquired land admeasuring 708 sq. mtrs. owned by the respondent herein. The notification under Section 4 of the Act was issued on 04/02/1970. The Land Acquisition Officer had passed an award on 21/04/1986 and awarded compensation @ 2.70 per sq. mtr. Being aggrieved by the quantum of compensation, the respondent filed a reference under Section 18 of the Land Acquisition Act. The Reference Court, by judgment and award dated 21/01/1993 determined the market value of the acquired land at the rate of Rs.10 per sq. mtr. Being aggrieved by the impugned judgment and award,

the State has preferred this appeal. The learned AGP submits that the challenge is restricted only to grant of benefit under Section 23(1-A) of the Land Acquisition Act. Relying upon the judgment of this Court in ***State of Maharashtra v/s. Shyamkant Dattatraya Patil 2006(5) Bom.C.R. 739***, he submits that the land was acquired prior to the amendment and as such, the Reference Court was not competent to grant additional benefit under Section 23(1-A) of Section 23.

3. In the judgment of ***Shyamkant Dattatraya Patil (supra)***, the Single Judge of this Court, after considering the principles laid down by the Apex Court in ***Union of India and ors. V/s. Filip Tiago De Gama AIR 1990 SC 981*** and ***K.S. Paripoornan v/s. State of Kerala and ors. AIR 1995 SC 1012***, has held that the benefit of additional component under Section (1-A) of Section 23 can be given only when the proceedings for acquisition were pending and the award was not passed by the Collector. It is held that the benefit under Section 23(1-A) cannot be given in cases where the Collector had already passed the award prior to 1982.

4. In the instant case, the records indicate that the Section 4 notification was issued on 04/02/1970. The Land Acquisition Officer

had passed the award on 21/04/1986 i.e., after the date of the amendment. In the light of this factual position, the Reference Court was justified in granting benefit of Section 23(1-A). The award does not suffer from any infirmity or illegality. Under the circumstances, the Appeal has no merits and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)