

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

**FIRST APPEAL NO. 815 OF 1994
WITH
FIRST APPEAL NO. 816 OF 1994**

The State of Maharashtra
V/s.

....Appellant

Sagunabai Shinu Vaity

....Respondent

Mr. Y.Y. Dabke, AGP for the Appellant.
None for the respondent.

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

JUDGMENT:-

. The Appellant – State has filed these appeals challenging the judgment and award dated 18/03/1993 passed by the Joint District Judge, Thane in Land Acquisition Reference No.66/1987 and 91/1987 under Section 18 of the Land Acquisition Act, 1894.

2. The brief facts necessary to decide these appeals are as under :-

3. The Government of Maharashtra had acquired land admeasuring 4600 sq. mtrs from Survey no.14, 99, 106 and 88 (subject matter of LAR No.66/1987) and land admeasuring 2670 sq. mtrs. from Survey No.14 of village Majiwade, District Thane for the purpose of construction of sewerage plant and implementation of sewerage

scheme. The notification under Section 4 in LAR No.66 of 1987 and 91 of 1987 were published on 22/02/1980 and 10/2/1983 respectively. The Land Acquisition Officer had passed the awards on 21/5/1985 and 10/9/1986. The Land Acquisition Officer had awarded compensation @ Rs.40 per sq. mtr to the claimants in Land Reference No.66/1987 and Rs.35 per sq. mtr to the claimants in Land Reference No.91 of 1987. Being dissatisfied with the quantum of compensation awarded by the Land Acquisition Officer, the claimants filed reference under Section 18 claiming enhanced compensation @ Rs.200 per sq. mtr.

4. The Reference Court, after considering the evidence adduced by the claimants in the respective Land Acquisition Reference, awarded compensation @ Rs.75 per sq. mtr in respect of the land which is the subject matter of the LAR No.66/1987 and Rs.60 per sq. mtr for the land which is the subject matter of LAR No.91/1987. Being aggrieved by the judgment and award, the appellant-State has preferred these appeals.

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

6. The records indicate that the acquired land which is the subject matter of these two references, is situated at village Majiwade, Thane. It is not in dispute that the said land is now included within the limits of Thane Municipal Corporation. The Reference Court, after considering the evidence adduced by the claimants has recorded a finding that all civic amenities are available in and around the acquired land. It is also to be noted that several factories, housing societies and corporate offices are in close proximity to the acquired land. The acquired land is at the distance of about 3 kms from Thane Railway Station. The Reference Court has also recorded a finding that Thane City is about 20 miles away from Mumbai and is also now close to the satellite city of New Bombay.

7. The Reference Court has further observed that the Land Acquisition Officer has considered several sale transactions in determining the market rate of the acquired land. The sale instances referred to by the Land Acquisition Officer indicate that the market rate of the land as on the date of the notification was 54.10 paise per sq. mtr., despite which, the Land Acquisition Officer has chosen to rely upon those sale instances wherein the market rate is shown to be 40

per sq. mtr.

8. The claimants had also relied upon the judgment and award dated 30/11/1992 in LAR No.143/1987 and LAR No.142/1987. The claimants had stated that the land which was the subject matter of judgment and award dated 30/11/1992. By the said judgment and award dated 30/11/1992, which has now attained finality, the Reference Court had awarded compensation @ Rs.75 per sq. mtr in respect of the land which undisputedly is at about 5 minutes walking distance from the land which is the subject matter of the present reference. Relying upon the said judgment, the Reference Court has determined the market rate @ 75 per sq. mtr in respect of the land which is the subject matter of the LAR No.66/1987. The Reference Court has further held that the land which is the subject matter of LAR No.91/1987 is closer to the creek and hence, awarded compensation @ Rs.60 per sq. mtr.

9. As stated earlier, by the judgment and award dated 30/11/1992, which has attained finality, the market rate of the land which is in the close vicinity of the acquired land has been fixed at Rs.75 per sq. mtr. The Reference Court was, therefore, justified in relying upon the said

award in fixing the market rate of the acquired land in the present reference.

10. Considering the evidence on record, in my considered view the compensation awarded by the Reference Court is just and reasonable and does not call for any interference.

11. Under the circumstances, both these appeals being devoid of merits are dismissed.

Preeti
H.
Jayani

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signed by
Preeti H.
Jayani
Date:
2019.08.06
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(SMT. ANUJA PRABHUDESSAI, J.)