

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

**FIRST APPEAL NO.394 OF 1993
WITH
CIVIL APPLICATION NO.1531 OF 2013
WITH
FIRST APPEAL NO. 394 OF 1993**

Peersha Jamalsha Darga (through its
trustees)

1A -Ibrahim Shaikh mujawar and
Ors.

...Appellants

Versus

The Special Land Acquisition Officer,
Panvel

...Respondent

.....

Mr. D.N. Salvi and Mr. Aditya Rakhade for the Appellants.

Mr. A.R. Patil, AGP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 7th MARCH, 2019.

P.C.:-

The Appellants herein have challenged the judgment and award dated 4/9/1991 passed by the 3rd Additional District Judge, Raigad-Alibag in Land Reference No.239 of 1986.

2. Heard the learned counsel for the Appellants and the learned AGP for the Respondent-State. Perused the records and considered the submissions advanced by the learned counsel for the

respective parties.

3. The Land Acquisition Officer had acquired land bearing Survey No.374, Hissa No.1, 2 and 3A admeasuring 8190 sq. ft. situated at village Panvel, Taluka-Panvel District-Raigad, for New Bombay Project. The said Appellants were the tenants of the said land, which was owned by a Trust. The notification issued under Section 4 of the Maharashtra Regional Town Planning Act, 1966 was published in the official gazette dated 3/2/1970. The Land Acquisition Officer made an award on 19/3/1985. The Land Acquisition Officer had awarded compensation @ of Rs.10 per sq. meters. The Appellants filed a reference under Section 18 of the Land Acquisition Act and claimed compensation of @ of Rs.20 per sq. meters. The Reference Court after considering the oral as well as documentary evidence adduced by the parties enhanced compensation @ of Rs.12 per sq. meters.

4. The learned counsel for the Appellants submits that this Court in First Appeal No.276 of 1993 has enhanced compensation to Rs.20 per sq. meters. He has stated that the said judgment is in respect of the adjoining land. Said judgment was not challenged and has attained finality and the compensation in the present case can be awarded on the basis of the said judgment.

5. The learned AGP does not dispute that the judgment dated 7/3/2005 passed in the First Appeal No.276 of 1993 is in respect of the adjoining land. The acquired land of the Appellant as well as the land, which is the subject matter of the appeal are of similar nature and have similar potentiality as well as similar advantages and disadvantages.

6. Considering the above facts, in my considered view the market value of the acquired land can be based on the judgment dated 7/3/2005 and hence the appeal needs to be allowed. Hence, the following order:-

7. The first appeal is allowed. The compensation in respect of the acquired land bearing Survey No.374, Hissa No.1, 2 and 3A admeasuring 8190 sq. ft. situated at village Panvel, Taluka-Panvel District-Raigad, is enhanced from Rs. 12 per sq.meter to to 20 sq. meter. The Appellants are entitled for all consequential benefits under Section 23 1(A) and 28 of the Land Acquisition of the Act.

8. The civil application stands disposed of in view of disposal of the First Appeal.

(SMT. ANUJA PRABHUDESSAI, J.)