

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

FIRST APPEAL NO. 569 OF 1994

The State of Maharashtra

....Appellant

V/s.

Vithoba Shankar Kotkar (since decd.
through legal heirs) :

Vedprakash Vithoba Kotkar and ors.

....Respondents

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

None for the respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th SEPTEMBER, 2019

ORAL JUDGMENT :-

. The Appellant/State has challenged the judgment and award dated 13/08/1993 passed by the Joint District Judge, Thane in Land Reference No.180 of 1987.

2. The Government had acquired the land admeasuring 1416 sq. meter from Gut No.228/6 of village Dighe, Taluka and Dist. Thane for industrial and residential purposes. The notification under Section 4 of the Land Acquisition Act was published on 16/07/1964. Subsequently, notification under Section 6 was issued and duly published on 21/10/1965. The Land Acquisition officer awarded compensation at the rate of 1.20 per sq. meter. Not being satisfied with the quantum of compensation awarded by the LAO, the

respondent sought reference under Section 18 of the Land Acquisition Act. The Reference Court after considering the location, nature and potentiality of the acquired land and relying upon the previous judgment in LAR No.282 of 1987, fixed the market rate at Rs.10/- per sq. mt. Being aggrieved by the impugned judgment and award, the State has preferred this appeal.

3. Heard Mr. Y.Y. Dabke, the learned AGP. He submits that the appellant had not produced any sale instances to prove the market rate of the acquired land. He further submits that the amount awarded by the Reference Court is excessive and is not the prevailing rate of the land as on the date of the notification.

4. I have perused the records and considered the submissions advanced by the learned counsel for the appellant.

5. The records reveal that the acquired land is at the distance of about 1 km from Thane Belapur road. All civic amenities such as electricity, water supply, market etc. were available in and around the acquired land. It is also in evidence that several factories had come up in the vicinity of the acquired land. The evidence on record indicates that the acquired land had residential as well as

commercial potentiality.

6. The Reference Court in determining the market rate of the acquired land, had considered the judgment in LAR No.202/1987 which is in respect of the land located at Kalva village. The Reference court had recorded a finding that the land which is the subject matter of the said LAR, is similar to that the land which is the subject matter of the LAR No.202/1987. Relying upon the judgment of the LAR No.202/1987, the Reference Court has enhanced the compensation at the rate of Rs.10 per sq. meter. The learned AGP has not been able to point out that the judgment and award in LAR No.202/1987 is challenged and/or the same has been set-aside or modified. The judgment which has attained finality and is in proximity from time as well as situation angle, can be very well relied upon to determine the market rate of the acquired land. Furthermore, it is seen that in the judgment in First Appeal No.832/1997 which also indicates that the market rate of the similar land situated in the adjacent villages and which was acquired for the same purposes, has been fixed at the rate of Rs.10 per sq. meter.

7. Considering the above facts and circumstances, there is no

reason to interfere with the judgment of the Joint District Judge,
Thane. The appeal is devoid of merits and is accordingly dismissed.

Preeti
H.
Jayani

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Preeti H.
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(SMT. ANUJA PRABHUDESSAI, J.)