

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

FIRST APPEAL NO.762 OF 1996

The State of Maharashtra
v/s.

..Appellant

Damayanti Wealji Sajpal & Ors.

..Respondents

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

Ms.Sonia S. Miskin i/b. Mr.Piyush Shah for Respondents.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 8th AUGUST, 2019.**

P.C.

1. By this appeal the State has challenged the Judgment and Award dated 29/07/1993 passed by the Learned District Judge, Raigad - Alibag in Land Acquisition Reference No. 552 of 1987.

2. The Government had acquired land of the respondents admeasuring 2006.7 sq.mtr. from Survey No.688, Hissa No.1 situated within the limits of Panvel Municipality for the purpose of establishing New Bombay Project. Section 4 notification was

published in the Official Gazette on 04/02/1970. The Land Acquisition Officer by Award dated 04/02/1970 determined compensation @Rs.5.50 Ps. per sq.mtr. Being dis-satisfied with the compensation awarded by the Land Acquisition Officer, the respondent sought reference under Section 18 of the Land Acquisition Act. The respondent claimed enhanced compensation @Rs.30/- per sq.mtr. The Reference Court after considering the evidence adduced by the respondent enhanced the compensation to Rs.27.50 Ps. per sq.mtr. Being aggrieved by this Judgment and Award the State has filed Affidavit.

3. Heard learned AGP for the appellant and Ms.Sonia S. Miskin, learned Counsel for the respondent. Perused the records and considered the submissions advanced by the Learned Advocate for the respective parties.

4. The Learned AGP has submitted that by common Judgment dated 14/10/1994 the District Court at Raigad had disposed of number of Land Requisition References under Section 18 of the Land

Acquisition Act in respect of land acquired for the same purpose. He submits that the notification in the present reference was published in the Official Gazette on 04/02/1970 whereas the notification under Section 4 in respect of the land which is the subject matter of the Judgment dated 14/10/1994 was published in the Official Gazette on 03/02/1970. By Judgment dated 14/10/1994 the Reference Court had enhanced the compensation to Rs.35/- per sq.mtr. in respect of the land which is near the highway whereas the Reference Court had awarded compensation of Rs.25/- per sq.mtr. in respect of the land which was beyond 1000 sq.mtr. from the highway. The State Government as well as claimant in the said land references had challenged the said order in FA No. 604 of 1995 and other group matters. The learned AGP has placed on record the copy of the decision of the Division Bench of this Court in State of Maharashtra v/s. Prakash V. Deodhar. In FA No. 604 of 1995 and other group matters wherein the Division Bench of this Court has granted compensation @ Rs.25/- per sq.mtr. in respect of land falling within the 750 sq.mtr. of the national highway, Rs.23/- per sq.mtr. in respect of land within the 750 to 1500 meters of the National

Highway and Rs.21/- per sq.mtr. in respect of land beyond 1500 meters of the National Highway. The learned Counsel for the respondent concedes that the present case is covered by the said Judgment.

5. It is not in dispute that the land which is the subject matter of the present appeal is abutting the National Highway. Hence, claimant would be entitled for compensation of Rs.25/- per sq.mtr. as against Rs.27.50 Ps. per sq.mtr. granted by the Reference Court. The award to that extent needs to be modified.

6. Hence, Appeal is partly allowed. It is held that the claimants are entitled for compensation @ Rs.25/- per sq.mtr. The respondent would be entitled to get benefit under Section 23(1)(A), 28 and all other statutory benefits. The Appeal stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)