

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

**CIVIL APPLICATION NO.3464 OF 2009
WITH
CIVIL APPLICATION NO.3463 OF 2009
IN
FIRST APPEAL NO.494 OF 1992**

The State of Maharashtra

...Applicant/Appellant

Versus

Smt. Sulochana Hanuman Kandpile and
Ors.

...Respondents

.....

Mr. Y.Y. Dabke, AGP for the Appellant/Applicant.
None for the Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 16th AUGUST, 2019.

P.C.:-

The Appellant-State has challenged the judgment and award dated 1st November, 1991 passed by the learned 3rd Additional District Judge, Raigad-Alibag in L.A.R. No.82 of 1986. By the impugned judgment and award the Reference Court had partly allowed the reference under Section 18 of the Land Acquisition Act, 1894 and has enhanced the compensation to Rs.25/- per sq.meter.

2. The land under reference was acquired by CIDCO for New

Bombay project Notification dated 4th February, 1970 under Section 4 of the Land Acquisition Act. The Land Acquisition Officer had awarded compensation @ Rs.6 per sq. meter. Being dissatisfied with the said compensation the Respondents had filed an application under Section 18 of the Land Acquisition Act, 1894 and had claimed enhanced compensation of Rs.40 per sq. meter. Upon considering the evidence adduced by the Respondents/original claimants, the Reference Court by the impugned judgment and award, enhanced the compensation to Rs.25/- per sq. meter. Being aggrieved by this judgment, the State has filed this appeal.

3. It may be mentioned that during the pendency of the Appeal, the Respondent Nos.1 and 2 had expired. The application for bringing on record the legal representatives of the deceased Respondent Nos.1 and 2 has already been dismissed and the proceedings have abated as against the Respondent Nos.1 and 2. The Appeal is also dismissed against the Respondent Nos.4 to 8 for want of service. In view of the abatement as well as the dismissal of the appeal against the Respondent Nos.1 and 2, the appeal cannot proceed against the Respondent No.3(a) to 3(c) who are only the co-owners of the property.

4. It is also pertinent to note that in *State of Maharashtra vs. Prakash Vasudeo Deodhar, 2008 (5) Bom.C.R.708* the Division Bench of this Court whilst deciding the appeals in respect of the land acquired for the same project has fixed compensation of Rs.25/- per sq. meter in respect of the land following within 750 meters of the National Highway. The learned AGP fairly states that the land, which is subject matter of the present Appeal is situated at 480 meters away from the National highway. Hence, in view of the judgment of the Division Bench, the compensation payable would be @ Rs.25 per sq. meter. Hence, even otherwise on merits the compensation paid by the Reference Court is just and proper.

5. Under the circumstances and in view of discussion supra, the appeal stands dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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