

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 672 OF 1993

**Gulam Saheb Husenmiya Patel,
Since deceased through his heirs and
legal representatives
Smt.Hajirabi Abdul Hamid Khan Bubere & Anr. Appellants**

VERSUS

**The State of Maharashtra
Through the Special Land Acquisition Officer,
Metro Centre No.V, Panvel (New)
District Raigad & Ors. Respondents**

ALONGWITH
FIRST APPEAL NO. 427 OF 1993

**The State of Maharashtra
Through the Special Land Acquisition Officer,
Metro Centre No.5, Panvel (New)
District Raigad Appellant**

VERSUS

Gulamsaheb Husenmiya Patel Respondent

Mr.Rajesh Datar, a/w. Mr.Akshay J. Kandarkar for the Appellant in FA/672/1993 and for the Respondent in FA/427/1993.

Mr.A.R.Patil, Additional Government Pleader for the Appellant – State in FA/427/1993 and for the Respondent in FA/672/1993.

Ms. Seema Sarnaik for the Respondent nos. 5 and 16 in FA/672/1993.

CORAM : R.D. DHANUKA, J.

DATE : 21st FEBRUARY, 2020

P.C.

By consent of parties, both these First Appeals were heard together and are being disposed of by a common order. The appellant in First Appeal No.672 of 1993 are the legal heirs of the original

claimant Mr.Gulam Saheb Husenmiya Patel. The appeal is preferred against the order passed by the Reference Court dated 27th March, 1992 partly rejecting the claims made by the appellants. Some of the relevant facts for the purpose of deciding these appeals are as under :-

2. On 3rd February,1970, the State Government issued a notification under section 4 of the Land Acquisition Act, 1894 in respect of the land bearing Survey Nos. 12/4, 94/1, 95/4 totally admeasuring 20600 sq.mtrs. On 3rd February,1972, a notification under section 6 of the Land Acquisition Act, 1894 came to be issued. On 4th October,1985, the Special Land Acquisition Officer, Metro Centre No.5 made an award allowing the compensation at the rate of Rs.3/- per sq.metre in favour of the original claimant. The original claimant made a reference and demanded a sum of Rs.30/- per sq.metre before the Reference Court . The Reference Court by an order dated 27th March,1992 partly allowed the said claim for enhancement at Rs.15/- per sq.metre.

3. Being aggrieved by the said order passed by the Reference Court, the legal heirs of the original claimant filed this First Appeal. State Government also filed separate First Appeal.

4. Mr.Datar, learned counsel for the appellants in First Appeal No.672 of 1993 invited my attention to the judgment delivered by this court in case of ***The State of Maharashtra vs. Bama Balu Tembhe in First Appeal No.382 of 1984*** and other companion matters delivered on 3rd March 1987, 4th March 1987, 5th March 1987, 6th March 1987, 9th March 1987 and 19th March 1987 and would submit that in respect of the same village with identical facts, this court has awarded compensation at the rate of Rs.25/- per sq.metre.

5. Learned counsel also placed reliance on the judgment delivered by this court in ***First Appeal No.875 of 1985 in case of Abdul Aziz Husenmiya Patel vs. The Special Land Acquisition Officer*** and others connected matters delivered on 16th March, 2000 and would submit that the same Division Bench of this court in the said judgment in respect of the same village and in identical facts has awarded compensation at the rate of Rs.25/- per sq.metre. Learned counsel submits that his clients are ready and willing to accept the said amount at Rs.25/- per sq.metre as against the original claim of Rs.30/- per sq.metre. Statement is accepted.

6. Mr.Patil, learned A.G.P. for the State of Maharashtra does not dispute this position. Learned A.G.P. further states that the State Government is ready to pay the compensation at the rate of Rs.25/- per sq.metre in accordance with the view already taken by the Division Bench of this court in case of ***Abdul Aziz Husenmiya Patel*** (supra). Statement is accepted.

7. I, therefore, pass the following order :-

(a) The order dated 27th March,1992 passed by the Reference Court is modified as under :-

(b) The original claimant/s would be entitled to recover the compensation at the rate of Rs.25/- per sq.metre as against the amount of Rs.15/- per sq.metre awarded by the Reference Court.

(c) Rest of the compensation allowed under the said order are not modified and are confirmed.

(d) The Reference Court is accordingly directed to compute the total amount as awarded by the Reference Court and modified by this order. The computation shall be made within eight weeks from today.

(e) The Reference Court is directed to compute the other compensation and the interest permissible in law based on the amount of Rs.25/- per sq.metre awarded by this court.

(f) The State Government is directed to pay the differential amount within 12 weeks from the date of computation of the shortfall amount without fail. The deposit shall be made by the State Government in respect of such shortfall with interest to be computed upto the date of deposit.

(g) The claimant/s would be at liberty to withdraw the amount that is already deposited by the State Government and also the amount that would be deposited unconditionally after giving credit of the amount already withdrawn.

(h) The Reference Court to permit the claimant/s to withdraw such amount on production of an authenticated copy of this order.

(i) Insofar as the amount payable in accordance with the order passed by the Reference Court is concerned, the claimant/s would be at liberty to withdraw the said amount after giving credit of the amount already withdrawn within four weeks from today unconditionally. The bank guarantee furnished, if any, by the claimant/s shall be returned by the Reference Court to the claimant/s upon allowing the claimant/s to withdraw the said amount.

8. Both the above First Appeals are disposed of on the aforesaid terms.

9. In view of the disposal of the First Appeals, all pending civil applications, if any, are also disposed of.

10. The parties as well as the Reference Court to act upon the authenticated copy of this order.

[R.D.DHANUKA, J.]