

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

FIRST APPEAL NO. 153 OF 1994

The State of Maharashtra ..Appellant/Applicant.

v/s.

Dhonappa Pama Koli & Ors. ..Respondents

WITH
FIRST APPEAL NO. 155 OF 1994

The State of Maharashtra ..Appellant/Applicant.

v/s.

Sau Godabai w/o. Sidraya Patil. ..Respondents

Mr. A.R.Patil, AGP for the Appellant/-State.
None for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 28th JULY, 2022.**

P.C.

1. These appeals are directed against the judgment dated 13.08.1992 in LAR No. 118 of 1990 and LAR No.120 of 1990. By the impugned judgment, the Reference Court partly allowed the reference under Section 18 filed by the Respondent Claimants, and enhanced the compensation to Rs.15,000/- per hectare.
2. The records reveal that the land of the Respondent was acquired by the Government for the purpose of canal. Notification under Section 4 was published on 8.11.1984. The Land Acquisition Officer Awarded

total compensation of Rs.4508/- in respect of land admeasuring 53 R from Gat No.66 (subject matter of LAR 118 of 1990 in First Appeal 153 of 1994), and compensation of Rs.2415/- in respect of land admeasuring 41R from Gate No.108 (subject matter of LAR 120 of 1999 in First Appeal No.155 of 1994). Being aggrieved by the compensation, the Respondent-claimants made a reference under Section 18 of the Land Acquisition Act.

3. The Reference Court, after considering the evidence on record has enhanced the compensation at the rate of Rs.15,000/- per hectare. Accordingly, the Reference Court awarded total compensation of Rs.8150/- to the respondent-claimant in First Appeal No.153 of 1994 and Rs.6150/- to the respondent-claimant in First Appeal No. 155 of 1994. Being aggrieved by the judgment and award, the State has preferred these appeals.

4. I have perused the records and considered the submissions advanced by the learned AGP for the State. The records reveal that the land of the Respondent-claimant was acquired for the purpose of canal. The respondent-claimant had claimed that the compensation awarded by the Land Acquisition Officer was far below the market rate of the acquired land as on the date of Section 4 notification. The records reveal that the Claimants had relied upon several sale instances. The Reference Court held that the acquired land was unirrigated land and hence did not rely upon the sale instances at Exhibit 16 to 18 and 39 to

40. The Reference Court has observed that the Land Acquisition Officer had relied upon the sale instances of the year 1981. Though Section 4 notification was published on 8.11.1984, the Reference Court has relied upon the sale instances at Exhibit 19 which was in respect of unirrigated land forming part of Gat No.66, part of which was acquired for the same purpose, which was also acquired for percolation tank. The Reference Court has observed that the land which is the subject matter of the sale instance is in the close vicinity of the acquired land and relied upon the sale instances. The Reference Court had determined the market rate at Rs.30,000/- per hectare. After deducting the amount awarded by the Land Acquisition Officer, the Appellant State is liable to pay Rs.3641/- to the respondent claimant in First Appeal No.153 of 1994 and Rs.3699/- to the Respondent in First Appeal No. 155 of 1994, with interest and other statutory benefits. The amount enhanced is very meagre. Moreover, the determination of the market rate is based on the sale instances.

5. Considering the above facts and circumstances, I am not inclined to interfere with the impugned judgment. Hence both the appeals stand dismissed.

(ANUJA PRABHUDESSAI, J.)