

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

FIRST APPEAL NO.1171 OF 1989

The Special Land Acquisition
Officer, Special Unit, T.P. & V.D.,
Thane

...Appellant

Versus

Ramchandra Vishwanath Karve
since deceased by his heirs and
legal representatives-

1. Smt. Jankibai Ramchandra
Karve-deleted.

2. Vasudeo Ramchandra Karve
since deceased Narayan
Ramchandra Karve and Ors.

...Respondents

...

Mr. N.B. Patil, AGP for Appellant-State.

Mr. Niranjana Mogre for Respondent Nos.3(B) to 3(D), 4(A) to 4(D),
5(A), 5(B), 6(A) and 6(B).

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 14th JULY, 2022.

P. C. :-

1. The Appellant -State has filed this appeal under Section 54 of the Land Acquisition Act, 1894 challenging judgment dated 02/01/1989 in L.A.R. No.41 of 1983.

2. The State had acquired the land under City Survey Nos.3543, 3525 and 3540 from the portion of land for housing project

for the development plan under M.R.T.P. Act. Notification under Section 126(4) of the M.R.T.P. Act r/w Section 6 of the Land Acquisition Act was published on 13/10/1977. The Special Land Acquisition Officer awarded compensation @ 8 p.s.m. Not being satisfied with the quantum of compensation, the Claimant Ramchandra V. Karve filed application under Section 18 of the Land Acquisition Act, 1894.

3. The original claimant died during pendency of the reference and Respondent Nos.1/1 to 1/6 were brought on record as his legal representatives. By the impugned judgment Reference Court has determined the total compensation Rs.2,43,322/- with interest and statutory benefit. The total compensation comes to Rs.4,10,061.58/- and after deducting Rs.1,03,698/- awarded by the L.A.O., the compensation determined by the Land Acquisition Officer, the Reference Court directed the Respondent -State to pay to the Claimants an amount of Rs.3,06,362.98. Being aggrieved by the judgment and order, the State has filed this appeal under Section 54 of the Land Acquisition Act.

4. During the pendency of this appeal, name of Respondent No.1 was deleted vide order dated 27/06/1991. Respondent Nos.2 to 6

have expired and legal representatives were brought on record. The records indicate that proceedings have been dismissed against Respondent Nos. 2(a), 2(b), 2(c) , 2(g) and 3(a) vide Registrar Court's orders dated 08/07/2015 and 23/06/2022. Order of dismissal of the proceedings against Respondent Nos.2(c), 2(b) and 2(g) is not recalled and the award against them has attained finality. The decree is joint and indivisible. In the event the Appellant succeeds in the appeal, it will lead to inconsistent decree, which is not permissible under the law.

5. Hence, the appeal is dismissed. Pending application (s), if any, stand (s) disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)