

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

FIRST APPEAL NO. 684 OF 1997

The State of Maharashtra Appellant
v/s.
Smt. Prabhawati Narayan Khare
and ors. Respondents

Ms. Tanaya Goswami, AGP for the State.
None for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 04th AUGUST, 2022.

P. C. :-

. This is an Appeal against the judgment and award dated 29/06/1996 in Land Reference No.63/1987. By the impugned judgment, the Reference Court has enhanced the compensation at the rate of Rs.59,718.75/- per hectare.

2. The brief facts necessary to decide this Appeal are as under :-

3. The State Government has acquired portion of land admeasuring 50R from Survey No.69/5A/2 of village Kothrud for the purpose of construction of western diversion outside Pune city on Bombay Pune Road. Notification under section 4 was published in the official gazette

on 01/03/1973. The Land Acquisition Officer passed an Award under section 11 of the Act on 19/03/1985 and determined compensation at the rate of Rs.35,000/- per hectare. Not being satisfied with the quantum of compensation, the Respondent-claimant filed Reference under section 18 of the Land Acquisition Act.

4. The Reference Court after considering the evidence adduced by the Respondents-claimants has determined the compensation at the rate of Rs.59,718/- per hectare and considering the area of the acquired land, the Reference Court held that the Respondents-claimants are entitled for additional amount of Rs.29,850/- towards the market value of the land along with interest and other statutory benefits. Being aggrieved by this judgment and award, the State Government has filed this Appeal.

5. Heard learned AGP for the State. I have perused the records.

6. It is not in dispute that the land admeasuring 50R from Survey No.69/5A/2 of village Kothrud was acquired for construction of construction of western diversion outside Pune city on Bombay Pune Road. The claimant had alleged that the acquired land had NA

potentiality and that the land in the vicinity was developed. The Reference Court relied upon the sale deed in respect of the same property in the year 1969 wherein the land was sold at the rate of Rs.22,425/-.

7. Considering the fact that section 4 Notification was issued on 01/03/1973 and considering the increase in price of the land, the Reference Court has determined the price of land at Rs.19,100/- per Acre. Hence, based on the said sale deed, the Reference Court has awarded compensation of Rs.29,850/- for the land admeasuring 50 R with interest and other statutory benefits. It is well settled that the sale instance in respect of the same property, is the best evidence to determine the market value of the land. Considering this aspect, the determination of the market rate by the Reference Court does not justify any interference. Hence, the Appeal is dismissed.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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