

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

FIRST APPEAL NO. 127 OF 1996

The State of Maharashtra	 Appellant
v/s.	
Amiruddin Haji Abdul Karim	 Respondent

**WITH
FIRST APPEAL NO. 128 OF 1996
WITH
CIVIL APPLICATION NO. 6170 OF 1996
IN
FIRST APPEAL NO. 128 OF 1996**

The State of Maharashtra	 Appellant
v/s.	
Smt. Lailunissa Ahmedsaheb Sheikh	 Respondent

Mr. Y.Y. Dabke, AGP for the State.
Ms. Rukmini Khairnar i/b. Mr. P.N. Joshi for the Respondents.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th OCTOBER, 2022.

P. C. :-

. The Appellant – State has challenged the judgment dated 06/12/1993 in Land Reference Nos.173/1987 and 174/1987 respectively passed by the Reference Court. By the impugned judgment, the Reference Court allowed the reference under section 18 of the Land Acquisition Act and enhanced the compensation in respect of the acquired land under Gat No.50 and Gat No.52 of village

Bondarmal, Taluka Peth, Dist. Nashik.

2. The Appellant – State had acquired the land admeasuring 01 hectare and 85 Are and 27 ares from Gat Nos.50 and 52 respectively for the purpose of construction of percolation tank. Notification under section 4 was published in the year 1985. The Land Acquisition Officer passed an award on 01/07/1986 under section 11 and awarded compensation @ Rs.5,000/- per hectare in respect of Jirayat land, Rs.7,500/- per hectare for paddy trenches and Rs.200/- for Pot Kharaba land.

3. The Respondent – claimant claimed that the acquired land was a paddy field and thus disputed the classification of the land as Jirayat Land. The Respondent – claimant also challenged the quantum of compensation awarded by the Land Acquisition Officer and claimed enhanced compensation @ Rs.40,000/- per hectare.

4. The Reference Court relied upon 7/12 extracts in respect of Gat No.50 and Gat No.52 wherein the area of 2H and 89 Ares were shown as paddy cultivation and hence, held that the acquired land was a paddy field. The Reference Court has also taken note of the fact that

the acquired land is adivasi land and the agriculture is the only source of income. The Reference Court further observed that the sale instance of the year 1980 in respect of the land in the vicinity showed that the market rate of the land in the vicinity was Rs.18,348/- per hectare. Relying upon the said sale instance, the Reference Court enhanced the compensation to Rs.15,000/- per hectare. Being aggrieved by this judgment and award, the State has challenged this Appeal.

5. At the outset, it may be mentioned that the compensation enhanced by the Reference Court is less than four times the compensation awarded by the Land Acquisition Officer. Hence, the case would be squarely covered by the GR dated 03/11/2016. The market rate determined by the Reference Court otherwise appears to be lower than the market rate as on the date of the notification. Furthermore, the Reference Court has fixed the market rate of the acquired land on the basis of a sale deed of the land in the vicinity. By the said sale deed, which was executed about five years prior to section 4 notification, the land in the vicinity was sold at Rs.18,348/- per hectare. Though there is constant rise in the price of the land, the Reference Court has valued the land at Rs.15,000/- per hectare which

is lower than the rate of the sale deed land.

6. Considering the above facts and circumstances, I am not inclined to interfere with the impugned judgment. Hence, the Appeals are dismissed.

7. Pending applications, if any, stand disposed of in view of dismissal of the Appeals.

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2022.10.11
17:01:27 +0530

(SMT. ANUJA PRABHUDESSAI, J.)