

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

**FIRST APPEAL NO. 588 OF 1998
WITH
CIVIL APPLICATION (ST.) NO. 12571 OF 1998
WITH
CIVIL APPLICATION (ST.) NO. 5611 OF 1998
IN
FIRST APPEAL NO. 588 OF 1998
WITH
FIRST APPEAL NO. 589 OF 1998
WITH
CIVIL APPLICATION (ST.) NO. 12573 OF 1998
WITH
CIVIL APPLICATION (ST.) NO. 5616 OF 1998
IN
FIRST APPEAL NO. 589 OF 1998**

The State of Maharashtra Appellant
v/s.
Dharma Damu Sanap Respondent

Ms. Tanaya Goswami, AGP for the State.
Ms. Rukmini Khairnar i/b. PN. Joshi for the Respondent.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th NOVEMBER, 2022.

P. C. :-

. The Appellant – State has challenged the judgment and award dated 09/10/1997 passed by the learned Joint District Judge, Nashik in Land Reference Nos.996/1990 and 999/1990. By the impugned judgment, the Reference Court has enhanced the compensation to Rs.33,000/- per hectare in respect of the land acquired in Gat No.72-A

and Rs.34,000/- per hectare in respect of the land acquired under Gat No.72-B situated at village Jeur, Taluka Malegaon, Dist. Nashik for construction of Nagya Sakya project at Nandgaon, Dist. Nashik.

2. The brief facts necessary to decide these Appeals are as under :-

The State Government had acquired portion of land admeasuring 45R from Gat No.72-A and 24R from Gat No.72-B. The notification under section 4 was published in the official gazette on 09/04/1987. The Land Acquisition Officer determined the award and offered compensation of Rs.14,000/- per hectare in respect of land under Gat No.72-A and Rs.15,000/- in respect of land under Gat No.72-B. Not being satisfied with the quantum of compensation, the Respondent – Claimant filed reference under section 18 of the Land Acquisition Act.

3. The Reference Court relied upon the sale deed dated 26/05/1986 and determined the compensation at Rs.14,000/- and Rs.15,000/- in respect of the portion of the land from Gat No.72-A and 72-B respectively. Being aggrieved by the enhancement, the Appellant – State has preferred this Appeal.

4. Heard Ms. Tanaya Goswami, learned AGP for the Appellant –

State and Ms. R. Khairnar, learned counsel for the Respondent. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records reveal that the Claimants had sold portion of the same property vide deed of sale dated 26/05/1986 admeasuring 81 R from Gat No.72-A along with 1/6th share in the well @ Rs.37,037/-. The previous sale deed in respect of same property is the best evidence to determine the market rate of the acquired land. Hence, the Reference Court was justified in relying upon the said sale deed in determining the market rate of the acquired land.

6. The records reveal that the purchasers of the sale deed dated 26/05/1986 has also purchased 1/6th share in the well in view of which the Reference Court has deducted an amount of Rs.7,037/- and considering that the sale deed was about 11 months prior to the date of the notification and considering the increase in the price of the amount as 10%, determined the market rate at Rs.33,000/- per sq. meter from Gat No.72-A and Rs.34,000/- per sq. meter in respect of the Gat No.72-B. There is no error or infirmity in the impugned judgment. Moreover, the enhanced compensation is less than four time the compensation

offered by the Land Acquisition Officer. It is also to be noted that the total compensation payable to the Respondent – Claimant in respect of the land under Gat No.72-A and 72-B is Rs.26,979/-. The amount of compensation is very meager. Hence, I am not inclined to interfere with the impugned judgment. Hence, the Appeals are dismissed.

7. In the event, the Appellant-State has deposited the compensation before the Reference Court, the same shall be paid to the Respondent together with accrued interest.

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(SMT. ANUJA PRABHUDESSAI, J.)