

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

VAISHALI
ANIL
TIKAM

FIRST APPEAL No. 2251 OF 2006

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The Special Land Acquisition Officer ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH

FIRST APPEAL No. 2252 OF 2006

The State Land Acquisition Officer ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH

FIRST APPEAL No. 2253 OF 2006

WITH

CIVIL APPLICATION No. 230 OF 2019

IN

FIRST APPEAL No. 2253 OF 2006

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Applicant

In the matter between

The Special Land Acquisition Officer ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH

FIRST APPEAL No. 2254 OF 2006

The State of Maharashtra ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH
FIRST APPEAL No. 2255 OF 2006
The State of Maharashtra ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH
FIRST APPEAL No. 2256 OF 2006
The State of Maharashtra ...Appellant
Vs.

M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar ...Respondent

WITH
FIRST APPEAL No. 2257 OF 2006
The State of Maharashtra ...Appellant
Vs.

Dipesh Sampat Mehta ...Respondent

* * * *

Smt. P.N. Dabholkar, AGP for State-Appellant
Mr. Rumi Mirza a/w. Geetika Rajpal i/b. Mr. Kaushal
Thakker for Respondent

Coram : Sandeep K. Shinde, J.

Dated: 6TH MAY, 2022

PC.

1. Papers are produced for speaking to the minutes of the
Judgment and order dated 4th May, 2022. Pending appeals,

this Court vide order dated 6th November, 2006 permitted Respondents-Claimants to withdraw 1/4 of the amount upon furnishing security in each case to the satisfaction of the trial court. In view thereof, Claimants withdrew the amount against security. As the Appeals have been dismissed, the Trial Court shall return the security to the claimants unconditionally.

2. In the said order, cause title of First Appeal No. 2257 of 2006 be amended as under:

Name of the Respondent be substituted as '***Dipesh Sampat Mehta***'.

Corrections in the judgment be carried out accordingly.

(Sandeep K. Shinde, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FIRST APPEAL No. 2251 OF 2006**

The Special Land Acquisition Officer ...Appellant

Vs.

M/s. Indrayani Estate

Developers Pvt. Ltd., Through its

Director Mr. Kiran Thakkar ...Respondent

WITH

FIRST APPEAL No. 2252 OF 2006

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Vs.
M/s. Indrayani Estate
Developers Pvt. Ltd., Through its
Director Mr. Kiran Thakkar **...Respondent**
WITH
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WITH
FIRST APPEAL No. 2257 OF 2006
The State of Maharashtra **...Appellant**
Vs.

Dipesh Sampat Mehta **...Respondent**

* * * *

Smt. P.N. Dabholkar, AGP for State-Appellant
Mr. Rumi Mirza a/w. Geetika Rajpal i/b. Mr. Kaushal
Thakker for Respondent

Coram : Sandeep K. Shinde, J.

Reserved on 28th APRIL, 2022.
Pronounced on 4th MAY, 2022

JUDGMENT :

1. Taking exception to the common Judgment and Order dated 29th April, 2005 passed by the Learned Civil Judge, Senior Division, Panvel in Land Acquisition Reference No. 09/04 to

15/04, State has preferred these appeals under Section 54 of the Land Acquisition Act, 1894.

2. Special Land Acquisition Officer, Mumbai Pune Express Highway, Raigad, vide Award dated 23rd October, 1998, under Section 11 of the Land Acquisition Act, 1894 (Act for short), acquired lands admeasuring 39.95.7 hectares from Village Savroli, Taluka Khalapur, Dist. Raigad, awarding compensation at the rate of Rs.75,000/- per hectare for Varkas land, and Rs.1,500/- per hectare for pot Kharaba land. On reference by claimants U/s. 18 of the Acquisition Act, Reference Court directed the State to pay compensation at the rate of Rs.100/- per sq. mtr., with proportionate costs; Component at the rate of twelve per cent in addition to market value, under Section 23(1-A); solatium at the rate of thirty per cent, in addition to the market value under section 23 (2); interest at the rate of nine per cent per annum for one year and thereafter at the rate of fifteen per cent per annum under Section 28 of the Land Acquisition Act, 1894, and interest under Section 34 of the Land Acquisition Act, 1894. Feeling aggrieved thereby, State has preferred these Appeals.

2. Ms. Dabholkar, learned Assistant Government Pleader in support of the appeals, has taken me through the record of cases

and the depositions of witnesses. She pointed out that the findings of the Learned Reference Court that the market value of the acquired lands, was Rs.100/- per sq. mtr. was not founded on cogent, reliable and convincing evidence. She further pointed out that reliance placed by the reference court, on the awards in the Land Acquisition Reference Nos. 16/2004 to 18/2004 was misplaced, inasmuch as, the lands acquired therein, were from Village Adai, which had distinct topography and terrain, then the lands acquired herein from Village Savroli. Learned AGP would contend that potential value of the acquired land and its proximity to residential, commercial or industrial use, was not comparable to the lands from Village Adai to which this Court has directed to pay compensation @ Rs.387/- per square meter. Thus M/s. Dabholkar submitted the reference Court has erred in enhancing compensation @ Rs.100/- per sq. meter.

3. Mr. Rumi Mirza, learned counsel for the Respondents, on the other hand, submitted that the Learned Judge has in detail considered totality of the evidence including geographical features of acquired land and therefore, compensation awarded by the Reference Court at the rate of Rs.100/- per sq. mtr. cannot be faulted with. Mr. Mirza, learned counsel for the Appellant,

would rely on the judgment of the Division Bench in First Appeal No. 13 of 2006 and connected appeals. These appeals were preferred by the State; relating to the lands acquired from Village Adai for carrying on operation of Mumbai-Pune Expressway. The Division Bench has held market value of the acquired lands was Rs.387/- per sq. mtr. Mr. Mirza, learned counsel for the Respondent submitted, although Village Adai, is at the distance of 20 km. from Village Savroli, nevertheless, potentiality of the lands acquired, was at par, with lands in Village Adai. In support of this submission, Mr. Mirza, learned counsel has taken me through the evidence of Mr. Kiran Thakkar-PW1 and Mr. Vikram Vaiday (Valuer) PW2. Their evidence reveals; the acquired lands belonging to the Respondent, were near Khopoli Railway Station and Mumbai-Pune Railway Line. In the neighbouring area, there were factories and companies of repute. Evidence of Thakkar reveals that M/s. Bhushan Steel, Choudhary Steel, Uttam Steel Companies were at the distance of one kilometer from the acquired lands. So far as topography is concerned, the lands were at the distance of seven kilometers from Old Pune Highway; close to Khopoli Market; touching to Khopoli-Pen Road and within

five kilometers periphery of Khopoli Municipal Council. Mr. Vaidya's evidence reveals that all civic amenities like water, light, market, hospital were available within the range of 2.5 kilometer. His evidence also reveals that Khopoli Industrial Estate was at the distance of 2.5 kilometer. Thus evidence of Kiran Thakkar-PW1 and Vikrant Vaidya-PW2 imply that the acquired lands had not only the residential but industrial and commercial potential value. It is also evident from an application [Exhibits '36' and '37'] which show that claimant company had applied to the Collector for converting the lands for non-agricultural purposes. Thus, having regard to evidence on record, it is to be said, that the Reference Court has not solely relied on Award passed in respect of lands, acquired from neighbouring village i.e. Adai as contented by the State, but has given due weightage to all factors, positive and negative while determining the market value. For all these reasons, impugned Awards call for no interference. All appeals and pending applications therein are dismissed. Appeals are disposed of.

(Sandeep K. Shinde, J.)