

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

WRIT PETITION NO. 13329 OF 2018

Rukmini V. Keni & Others .. Petitioners.
v/s.
The Dy. Collector (Land Acquisition)
Raigad & Another .. Respondents.

Mr. Sachin S. Punde, for the Petitioners.
Mr. S. B. Kale, AGP for the Respondent-State.

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**CORAM: S.V. GANGAPURWALA &
VINAY JOSHI, JJ.**
DATED : 30th MARCH, 2022.

PC:-

The Petitioners seek compensation at the rate of Rs.25 per square meter of their acquired land.

2 The land of the Petitioners herein were acquired under award dated 22nd September, 1986. The land of the Petitioners were situated at village Wadghar, Taluka Panvel, Dist. Raigad.

3 The Petitioners are awarded compensation by the SLAO at Rs.1.20 per square meter. The Petitioners filed Reference before the Reference Court bearing LAR No. 316 of 2000 (old No. 274 of 1987.). The Reference Court enhanced the compensation amount to Rs.15 per square meter. The Respondents herein filed First Appeal before this Court. This Court in First Appeal reduced the compensation to Rs.12.50 per square meter. Against the said judgment, neither the Petitioners nor the Respondents approached the Apex Court.

4 It is submitted by the learned Counsel for the Petitioners that some of the land owners approached the Apex Court against the judgment of the High Court reducing the compensation to Rs.12.50 per square meter. The Apex Court in its judgment and order dated 2nd July, 2013 passed in Civil Appeal Nos. 5088-5089 of 2013, allowed the Appeals and directed compensation to be granted at the rate of Rs.25 per square meter with all statutory benefits and interests. The Apex Court further directed that the said rate would be applicable to all the other land owners who had not approached the Apex Court, also. Pursuant thereto, the Petitioners seeks compensation at the rate of Rs.25 per square meter for their acquired land.

5 The learned AGP submits that the Petitioners did not file SLP challenging the judgment of this Court, awarding compensation at Rs.12.5 per square meter. The judgment of the High Court vis-a-vis, the Petitioner has become final. The judgment of the Apex Court is dated 2nd July, 2013, the Petitioner for the first time in September, 2017 filed an application for awarding compensation at the rate of Rs.25 per square meter. The State has paid the compensation to the Petitioners at the rate of Rs.12.5 per square meter. Now, the Petitioners are not entitled for any amount.

6 The factual matrix as narrated above, is not disputed. The Petitioners have not filed Special Leave Appeal before the Supreme Court, challenging the Judgment of this Court, reducing the amount of compensation of Rs.12.5 per square meter. Some other land owners had approached the Apex Court, challenging the judgment of this Court reducing the amount of compensation. The Petitioners for the first time in September, 2017 filed an application for compensation at Rs.25 per square meter.

7 The matter before the Apex Court was in respect of acquisition made pursuant to notification dated 3rd September, 2017 issued under Section 4(1) for implementing new Bombay Project. The lands considered by the Apex Court were situated at Village Wadghar, Panvel. The award in question was dated 20th September, 1986. The Apex Court while passing the final order observed thus:-

“ In the result, the appeals are allowed, the impugned order is set aside and it is held that the appellants are entitled to compensation at the rate of Rs.25/- per sq. mtr. The respondents are directed to pay the balance amount of compensation to the appellants with all statutory benefits and interest within three months from today.

With a view to ensure that the landowners are not fleeced by the middleman, we deem it proper to issue the following further directions:-

(i) Within one month from today, the Special Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tehsildar or an equivalent rank, to get in touch with the landowners and/or their legal representative and inform them about their entitlement to receive the balance amount of compensation.

(ii) The officers concerned shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalized or scheduled bank, in case they already do not have such an account.

(iii) The account numbers of the landowners and/or their legal representatives should be furnished by the officer concerned to the Land Acquisition Officer within a period of one month.

(iv) Within next one month, the Special Land Acquisition Officer shall deposit the amount of compensation along with other statutory benefits in the bank accounts of the landowners and/or their legal representatives in the form of account payee cheques.

With a view to do justice to other landowners of Village Wadghar whose land was acquired along with that of the appellants but who may not have been able to approach the Reference Court, the High Court and this Court due to sheer ignorance, poverty and other similar handicaps, we direct that they shall also be paid compensation at the rate of Rs.25% per sq. mtr. with all statutory benefits and interest. This direction is being given keeping in view the philosophy underlying Section 28A of the Act as interpreted by this Court in Ramakrishna Rao v. Tghe Singareni Collieries Company Ltd., and Anr. (2010) 10 SCC 650 and Girimallappa v. The Special Land Acquisition Officer M and MIT and anr. (2012) 11 SCC 548 and in exercise of the power vested in this Court under Article 142 of the Constitution.”

8 The Apex Court exercising power under Section 142 of the Constitution, directed that with a view to do complete justice to the other land owner of village Wadhghar whose lands are acquired along with that of the appellants and had not approached either the Reference Court, High Court or the Apex Court shall be paid compensation at the rate of 25% per sq. mtr with all statutory benefits and interest. The Apex Court further directed that the Special Land Acquisition Officer shall depute an Officer subordinate to him not below the rank of Naib Tehsildar to get in touch with the landowners and/or their legal representative and inform them about their entitlement to receive the balance amount of compensation. It was further directed by the Apex Court that the officers concerned shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalized or scheduled bank, in case they already do not have such an account. The amount was directed to be paid along with the statutory benefits in the bank accounts within one month, after the bank accounts are opened.

9 It is submitted by learned Counsel for the Petitioner that none of the Officers of the Revenue Department approached the Petitioners, intimating them about the orders passed by the Apex Court. After getting the knowledge, the present Petition has been filed.

10 The order of the Apex Court is required to be complied with by the State Authorities and they were expected to comply it immediately.

11 In view of the judgment of the Apex Court, it is held that the Petitioners are entitled for compensation at the rate of Rs.25 per sq.mtrs for their acquired land under the award dated 28th September,1986 situated at Village Wadhgar, Panvel. The Respondents shall make payment of compensation to the Petitioners as above along with statutory benefits, preferably within a period of six months. The amount already paid shall be adjusted.

12 Writ Petition is accordingly allowed in the above terms.

(VINAY JOSHI,J.)

(S.V.GANGAPURWALA,J.)