



Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.842 OF 2023**

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|-------------------------------------|---|-----------------------------|
| 1. Nirmala Krushna Mundkar |] | |
| Age: 64 years, |] | |
| 2. Jayvanti Chandrakant Bhagat |] | |
| Age: 62 years, |] | |
| Both residing at Chinchpada |] | |
| Taluka – Panvel, District – Raigad. |] | Appellants |
| | | (Original Claimants) |

Versus

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|---------------------------------|---|-----------------------------|
| 1. The State of Maharashtra |] | |
| Through The Collector Raigad- |] | |
| Alibag, |] | |
| 2. The Special Land Acquisition |] | |
| Officer, Metro Centre No.3, |] | |
| Taluka Panvel, District Raigad. |] | Respondents |
| | | (Original Opponents) |

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Mr. Sachin S. Punde, for Appellants.

Mr. A.R. Patil, A.G.P, for Respondents-State.

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CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : 5th September, 2023.

JUDGMENT:

1. Feeling aggrieved with the judgment and award dated 24th October, 2013 passed by the Civil Judge (Senior Division), Panvel in L.A.R No.69 of 2008 under Section 28-A of the Land Acquisition Act, 1894, (for short “Act”), the appellants have preferred this appeal.

2. Facts in brief are as under.

3. Land of the appellants came to be acquired by the Government of Maharashtra vide Notification dated 3rd February, 1970 under section 4(1) of the Act. The land was acquired for setting up Satellite town of New Mumbai. It is the case of the appellants that compensation awarded by the Special Land Acquisition Officer (SLAO) was quite inadequate. The appellants could not make a reference under section 18 of the Land Acquisition Act owing to their poverty and illiteracy. They have, therefore, moved an application under Section 28-A of the Act before the Collector for re-determination of the amount of compensation on the basis of award of the Court. Since several lands from the village Vadghar, Taluka Panvel, District Raigad were acquired by the State, the appellants too had prayed for enhancement of compensation @ Rs.30 per square meter.

4. The learned Civil Judge (Senior Division) Panvel by the impugned judgment partly allowed the application against which, the present appeal has been filed.

5. Learned Counsel for the appellants as well as learned A.G.P are *ad idem* to award compensation to the appellants in view of the judgment of the Hon'ble Supreme Court in case of **Ambaji Dharma Pardeshi & Ors Vs. State of Maharashtra in Civil Appeal Nos. 5088-5089 of 2013**. In the said judgment, the Hon'ble Supreme Court, having considered various judgments passed earlier by the said Court as well as by the High Court, determined the market value of the acquired land @ Rs.25/- per square meter. Relevant paragraphs of the said judgment are extracted hereinbelow;

“ In 1970, the Government of Maharashtra acquired large chunks of land in 96 villages of Raigad and Thane Districts for implementing 'New Bombay Project'. By Notification dated 3.2.1970 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act'), land measuring 4375 sq. mtrs. situated in Village Wadghar, Panvel (Raigad) was proposed to be acquired for setting up satellite town of New Bombay. The Special Land Acquisition Officer (SLAO) passed award dated 20.9.1986 whereby he determined market value of the acquired land at the rate of Rs.1.50 per sq. mtr.

Although the judgment in Avinash Dhavaji Naik case (supra) was not noticed in Sabhia Mohammed Yusuf Abdul Hamid Mulla v. Special Land Acquisition officer (supra), keeping in view large number of judgments and orders passed by the High Court in relation to the

acquisition of similar parcels of land whereby market value of the acquired land was fixed at Rs.25/- per sq. mtr., it must be held that the appellants are entitled to similar relief.

We are conscious of the fact that in the claim petition filed before the Reference Court, the appellants had claimed compensation at the rate of Rs.20/- per square meter only but having regard to the fact that the High Court and this Court had awarded compensation at the rate of Rs.25/- per square meter in respect of identically situated parcels of land, we are convinced that there is every justification for awarding higher compensation to the appellants.

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 land owners 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 representatives 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 of the philosophy underlying Section 28A of the Act as interpreted by this Court in Ramakrishna Rao v. The Singareni Collieries Company Ltd. and Anr. (2010) 10 SCC 650 and Girimallappa v. The Special Land Acquisition Officer M and MTP and anr. (2012) 11 SCC 548 and in exercise of the power vested in this Court under Article 142 of the Constitution”.

6. The appeal is allowed and disposed of in terms of the ratio laid down by the Hon'ble Supreme Court in case of **Ambaji Dharma Pardeshi & Ors. (supra)**.

7. The respondents are directed to award amount of compensation to the appellants in consonance with the ratio laid down by the Hon'ble Supreme Court, especially in view of the directions (i) to (iv) as above.

8. The appeal stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]