

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

**FIRST APPEAL NO. 22 OF 2003
WITH
CIVIL APPLICATION NO. 84 OF 2004
IN
FIRST APPEAL NO. 22 OF 2003**

The State Of Maharashtra (Thr. SLAO, No. 6, Pune) ... Appellant

Vs.

Dattatraya Ganpat Pasalkar (decd.) By Lrs. ... Respondents (Org
1a. Suman Dattatraya Pasalkar & Ors. Claimants)

Mr. A. R. Patil, AGP for the Appellant/State.
None for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 18th March, 2024

P.C.:-

1. This Appeal is preferred by the State through Special Land Acquisition Officer No. 6, Pune (for short “SLAO”). Challenging the Judgment and Order dated 21.12.2001, passed by the Joint Civil Judge Senior Division Pune, in Land Reference No. 158 of 1991.

2. By way of impugned Judgment and Order the Reference filed by the Respondent/Claimant late Dattatray Ganpat Pasalkar, came to be allowed. The Appellant was directed to pay an amount of Rs. 1614/- to the Claimants in addition to the amount awarded by the SLAO, along with 30% solatium on the said amount with interest @ 12% p.a. from 05.08.1971 till

23.09.1986, further interest was directed to be paid @ 9% p.a. and on the amount of solatium and other benefits.

3. The few facts necessary for decision of the Appeal are that the Claimants were owner of land Survey No. 712 area of 0.18 Are from village Tav Tal. Mulshi District Pune came to be acquired. A Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short **“the said Act”**) was issued on 05.08.1971, for Veer Baji Pasalkar Dam. The Award was declared on 23.09.1986 and total amount of Rs. 546/- came to be awarded towards compensation, the possession was taken on 18.11.1986.

4. Being dissatisfied with the amount of compensation awarded by the SLAO the Claimants preferred an Application to the Collector under Section 18 on 02.03.1987. The case of the Claimants is that the amount of compensation awarded is inadequate. The market value of the land on the date of acquisition was much higher than the rate awarded by the SLAO. The Claimants claim the amount @ Rs. 25,000/- per hectare according to the amount of compensation is Rs. 3954, as just on fair compensation.

5. It is the case of the SLAO that before determining the compensation amount he has taken into consideration all material aspects. The amount of compensation awarded is as per market value. A ground of limitation is also taken in the written statement.

6. The learned Reference Court, considered that the Reference was made within 6 months on the date of award if a person is not present

in the office of collector from he has to submit the Application within 6 weeks from the date of receipt of the notice under Section 12(2) of the said Act or within 6 weeks from the date of Reference Award which ever is earlier. In this case it is considered that the SLAO, has not examined any witness to show that the Claimants were present before the Collector at the time of making award and it is further considered that the SLAO, has also not established that notice under Section 12(2) of the said Act was issued and served on the Claimants. The Court has thus taken the date of knowledge of the Applicant as material date which is 23.09.1986. The Application filed on 02.03.1987, is thus taken to be within 6 months from the date of award.

7. So far as just and fair compensation is concerned the evidence of Claimants Witness No. 1 i.e. Pravin is considered. So far as documentary evidence is concerned they relied upon the certified copies of the Judgment in Land Reference No. 126/1991, 123/1991, 179/1991. The Judgment in the L.A.R. No. 126/1991, was in respect of land acquired from the said Notification. The land in LAR No. 126/1991 is at the distance of 100-200 feet from the acquired land. Both lands are of similar quality. The Court mainly relied upon the earlier Judgment and accepted the case of the Claimant. It is considered that Judgment in L.A.R. No. 126/1991 was not challenged. The further evidence of the Claimants i.e. sale instances from the same villages are also considered where the consideration was shown @

Rs. 12,000/- per hectare and the same was accepted in L.A.R. No. 126/1991.

8. The learned AGP, Mr. Patil, vehemently argued the Appeal he submits that the Judgment and Order is passed without considering the evidence properly. The SLAO, had rightly passed the order granting compensation by considering various factors such as market value potentiality and quality of the land. No reliable evidence was brought by the Claimants. The Court has not taken into consideration the material factors as required to be considered under Section 24 of the said Act. The Claimant has relied upon only one sale instance and that was not sufficient to establish that the land acquired was of the same quality.

9. This Court has gone through the impugned Judgment. It is found that the learned SLAO, had awarded an amount of Rs. 2160/- for 18 Are land @ Rs. 12,000/- per hectare and the said is given by Rs. 1614/- i.e. awarded amount by the SLAO. The learned Reference Court has relied upon the sale deed showing the consideration @ Rs. 25000/- per hectare. This Court does not find any perversity in the said reasoning. The Court had rightly relied upon the award passed in LAR No. 126/1991 which had attained finality.

10. This Court finds that no case is made out calling for interference. The appeal is devoid of merits and therefore needs to be dismissed.

11. First Appeal stands dismissed. No Order as to costs.
12. Needless to say that pending Applications, if any, stand disposed of, in view of the disposal of the Appeal.

(KISHORE C. SANT, J.)