

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

FIRST APPEAL NO. 138 OF 2003

The State Of Maharashtra

... Appellant

Vs.

Mahendrakumar B. Shinde And Ors.

... Respondents

Mr. A. R. Patil, AGP for the Appellant/State.

Adv. Anjali Kotecha, for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 18th March, 2024

P.C.:-

1. Heard Learned AGP and learned Counsel for the Respondents.
2. This Appeal is filed challenging the Judgment and Award passed by the learned Joint Civil Judge Senior Division, Pune, dated 15.12.2001, in L.A.R. No. 274 of 1987.
3. By way of impugned Judgment and Order the learned Reference Court had granted an amount of Rs. 10,400/- towards enhanced compensation to the Claimants/Respondents with component @ 12% p.a. on the enhanced amount from the date of Notification i.e. from 04.04.1986 till 04.05.1987. Further it is directed to pay 30% solatium on the said amount and to pay interest @ 9% p.a. from the date of possession for a period of one year and thereafter to pay interest @ 15% p.a.
4. The facts in short are that the land of the Claimants from

Survey No. 116/5 admeasuring about 1 hectore from the village Varje Taluka Haveli District Pune, came to be acquired by the SLAO to the extent of 26-R. The Award was passed on 4th May, 1987 notice under Section 12-A was issued on 21.05.1987, the notice was received by the Applicants on 24.09.1987. The Applicants thereafter preferred the Reference under Section 18 of the Land Acquisition Act, 1894 (for short **“the said Act”**).

5. It is specific case of the Claimants that the Notification was published under Section 4 in the gazette dated 04.04.1986, no notices were issued under Section 6 and 9 were received by them. For that reason they could not remain present before the Collector on the date of award. The Claimants claim, if the SLAO had awarded sum of Rs. 28,600/- they also did not admitted solatium and other component. While awarding the rate the SLAO had not considered the quality of the land proper value of the land. While carrying out measurement Claimants were not given notice. There are 3 companies in the vicinity of the land they prayed for the proper value of Rs. 1,37,500/- with solatium and other benefits.

6. The Written Statement came to be filed by the SLAO raising ground of limitation. It is denied that the Claimants had no knowledge of notice under Section 6 and 9. It is the case of SLAO, that the SLAO had considered market value on the basis of the Survey made and prayed for dismissal of the Reference.

7. The Claimants is support of their claim examined one Manoj

Shinde as PW-1 i.e. one of the evidence he is specifically deposed that no notice was served by the authorities but the knowledge of receiving the notices of award. The acquired land is from residential zone. He produced also on record a copy of sale-deed dated 19.08.1987 showing consideration of Rs. 6500/- per guntha of Survey No. 135/2-B/2/7 which is only at the distance of 50 feet from the acquired land. The next witness examined is one Ratnaprabha Potegaonkar, who sold her land for consideration of Rs. 1300/- before 15 years. The third witness examined was also owner of similar land Manmohan Jagtap who sold his land of 2 guntha for consideration of Rs. 10,000/-.

8. The SLAO however could not produce any evidence to show that rate granted by him was fair and adequate.

9. The learned Reference Court on the basis of this evidence held that the SLAO, had not granted adequate and fair compensation and directed to pay an amount at the rate of Rs. 10,000/- per hector towards enhanced compensation. On the count of limitation the Court specifically held that the Reference was within time.

10. The learned AGP Mr. Patil, vehemently argued the appeal it is submitted that the learned SLAO has rightly awarded the compensation by considering the market rate no case was made out to enhance the compensation. The learned Reference Court has not considered the provisions of Section 24. Though the sale deeds were relied upon by the

Claimants there was no proof that the land of the Claimants was also of the same quality as of the lands in the other sale instances. The sale-deed were not reliable and prays for allowing the Appeal.

11. The learned Advocate for the Respondents opposed the appeal by stating that the learned Reference Court has rightly considered the evidence and the submissions, she thus prays for dismissal of the appeal.

12. This Court has considered the submissions of the learned AGP and the Judgment passed by the Reference Court and the evidence that was laid. This Court finds that the Claimants have relied on sale-deed the minimum consideration for the said was @ Rs. 6500 per guntha the sale-deeds were in respect of the land at the distance 50-100 feet from the land of the Claimant. The SLAO could not show that the lands are of different quality in fact there is no evidence laid by the SLAO to counter the evidence of the Claimants.

13. This court does not find any illegality or perversity in the impugned Judgment and Order. Considering the above this Court finds no merit in the appeal and the same is dismissed. No Order as to costs.

14. Needless to say that pending Applications, if any, stand disposed of, in view of the disposal of the appeal.

(KISHORE C. SANT, J.)