

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL STAMP NO.32927 OF 2016

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| 1. Executive Engineer,
Medium Project Division,
Nanded, Now Nanded
Irrigation Division
(North) Nanded under
Godawari Marathwada
Irrigation Development
Corporation Aurangabad. | = | APPELLANT
Acquiring Body
(Ori. Resp. No.3) |
| 2. The State of Maharashtra
Through Collector, Nanded | | |
| 3. The Special Land Acquisition
Officer, M.I.W. Nanded | = | CO-APPELLANTS
(Ori.R.Nos.1 & 2) |

VERSUS

Raosaheb S/o. Ramchandra Mustapure, Age: 53 years, Occu.: Agriculture, R/o. Andga, Taluka Loha, Dist. Nanded	=	RESPONDENT (Ori. Claimant)
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Mr. B.R. Surwase, Advocate for Appellant No.1;
Mr. Kiran M. Nagorkar, Advocate for Respondent/Sole.

CORAM : P.R.BORA, J.

DATE : 17th July, 2017.

PER COURT :

1) In view of the order passed on application for condonation of delay, the matter is taken up for final disposal. With consent of

learned Counsel appearing for the parties, heard finally.

2) The challenge of the acquiring body to the impugned judgment is limited to the extent of interest awarded under Section 34 of the Land Acquisition Act, 1894 (for short, the Act). In so far as determination of the market value is concerned, though the learned counsel for the acquiring body sought to canvass that the market value was determined at the higher rate, the objection so raised is liable to be rejected at the threshold. The Special Land Acquisition Officer offered the compensation @ Rs.450/- per Are; and Rs.460/- per Are and the Reference Court on the basis of the evidence brought before it has enhanced it to Rs.655/- per Are. I have gone through the discussion made by the Reference Court in the impugned Judgment and Award. I do not see any unreasonableness in the amount of compensation so determined by the Reference Court. In so far as the compensation amount

enhanced for tress also, I do not see any reason to cause any interference in the impugned Judgment and Award so passed. Admittedly, the evidence was adduced only by the claimant and no oral as well as documentary evidence was adduced either by the State or by the acquiring body. The Reference Court, after having considered the sale instances brought on record, has reasonably enhanced the amount of compensation. There seems no reason to cause any interference in the amount of compensation so enhanced by the Reference Court. However, in so far as interest awarded by the Reference Court under Section 34 of the Act is concerned, the same needs to be set aside in view of Full bench Judgment of this court in the case of State of Maharashtra Vs. Kailash Shiva Rangari - 2016 (3) Mh.L.J. 457. This court in the said judgment has held that interest under Section 34 of the Act can only be awarded from the date of the award under Section 11 of the Act and not from the date of possession or from the date of notification under Section 4 of the Act.

In the present matter, the Reference Court has committed an error in awarding the interest from the date of notification under Section 4 of the Act. Therefore, to that extent, interference is warranted.

3) For the reasons stated above, following order is passed, -

ORDER

- i) The impugned Judgment and Award in so far as it relates to award of interest under Section 34 of the Land Acquisition Act, stands modified and the interest under Section 34 of the Act is made payable to the claimant from the date of award under Section 11 of the Act, i.e. from 5th December, 1998;
- ii) The award be modified accordingly;
- iii) The appeal stands partly allowed in the aforesaid terms;
- iv) Pending civil application, if any, stands disposed of.

(P.R.BORA,J.)

bdv/