

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.457 OF 2003

1. The State of Maharashtra
Through Collector, Nanded
 2. The Special Land Acquisition Officer
UPP No. 1, Nanded
- Appellants

Versus

Venkatrao s/o Champatrao
age 31 years, occ. agri.,
r/o Barad Shevala
Tq. Hadgaon, Dist. Nanded

Respondent

Mr. K.N. Lokhande, AGP for appellants.
Mrs. S.G. Chincholkar, advocate for the respondent.

CORAM : M.S. SONAK, J.
DATE : 19th JANUARY, 2018

ORAL JUDGMENT :

1 Heard Mr.Lokhande, learned A.G.P. for appellants and Mrs.Chincholkar, learned Counsel for the Respondent.

2 The challenge in this appeal is to the judgment and award dated 13.04.1994, by which the Reference Court has enhanced the compensation amount from Rs.237/- per Are to Rs.450/- per Are. The Reference Court has also ordered payment of interest from 04.06.1982 to 03.06.1983 @ 9% p.a. and from 05.06.1983 to 28.02.1989 @ 15% p.a.

3 Mr.Lokhande, learned A.G.P., points out that there was no evidence on record to sustain any enhancement. He points out that the sale deed, on which reliance is placed by the Reference Court, relates to different village. He further points out that Section 4 Notification was issued on 06.11.1987 and, therefore, taking into consideration decision of the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari**, 2016 (4) ALL MR 513 (F.B.), the Reference Court exceeded its jurisdiction in awarding interest for the period prior to 06.11.1987. On this ground, Mr.Lokhande submits that the enhancement awarded is liable to be set aside.

4 Mrs.Chincholkar, learned Counsel for respondent-claimant, submits that the sale deed relied upon by the Reference Court relates to adjoining village. She submits that it was not even the case of the appellant-State that the sale instances from the same village were available. She submits that the sale instance relied upon by the Reference Court was a comparable sale instance and is rightly relied upon by the Reference Court.

5 Insofar as award of interest is concerned, Mrs.Chincholkar points out that there is evidence on record to show that possession of the acquired land was taken in the year 1982 itself, though, Section 4 Notification came to be issued in the year 1987. She points out that interest amount, in this case, hardly comes to Rs.1432/- and Rs.13050/-. She submits that for such paltry amount, the appeal may not be allowed. She submits that it will be harsh and inequitable to require the claimant, at this point of time, to refund amount of around Rs.15,000/-.

6 Mrs.Chincholkar further points out that the enhancement made in the present appeal is well within the limits prescribed by the State Government itself in Government Resolution dated 03.11.2016. Accordingly, she submits that the State Government ought not to have even pursued such appeal taking into consideration the rate of enhancement and the paltry amount involved. For all these reasons, Mrs.Chincholkar submits that the appeal may be dismissed.

7 There is no case made out to disturb the rate awarded by the Reference Court. The Reference Court has raised the enhancement on the basis of sale instance in respect of land sold from nearby village. The Reference Court came to the conclusion that there is no evidence that sale instances from the same village were available but were not produced. Nothing prevented the State Government from producing such sale instances if same were available. Accordingly, there is no infirmity in the enhancement granted by the Reference Court from Rs.237/- to Rs.450/- per Are.

8 Insofar as issue of interest prior to the date of Section 4 Notification i.e. prior to 1987 is concerned, Mr.Lokhande, learned A.G.P., is right in his submission that such interest could not have been awarded by the Reference Court since, this position has been clarified in the Full Bench of this Court in the case of **Kailash** (*supra*). However, for the period between 04.06.1982 to 03.06.1983, the Reference Court has awarded interest of Rs.1432/- and thereafter for the period between 05.06.1983 to 28.02.1989 interest of Rs.13050/- has been awarded. This includes interest for

approximately two years post Section 4 Notification dated 06.11.1987. This means that towards interest component, hardly an amount of Rs.10,000/- or thereabout has been awarded to the respondents-claimants way back in the year 1994. Taking into consideration quantum, there is really no necessity to interfere with the impugned award after clarifying the legal position.

9 It is necessary to point out that the enhancement, in the present case, is well within the limits prescribed by the State Government itself in Government Resolution dated 03.11.2016, as amended from time to time. The Government Resolution dated 03.11.2016 records a policy decision of the State Government not to institute appeals or to settle already instituted appeals where compensation awarded by the Reference Court is less than four times the compensation prevalent as per the Ready Reckoner rates on the date of issue of Section 4 Notification. Generally, the compensation awarded by the Special Land Acquisition Officer corresponds to the ready reckoner rates prevalent on the date of issue of Section 4 Notification. In effect, therefore, the Government Resolution dated 03.11.2016 records policy decision of the State to settle the matters where enhanced compensation is less than four times the rate determined by the SLAO, where such rate broadly corresponds to the ready reckoner rates. This formula applies to the lands located in rural areas. Since, the land, which form subject matter of present appeal, was located in rural area, there is no dispute that it is this formula, which will be applicable to the present appeal.

10 In the present matter, as noted earlier, the SLAO had

determined compensation at the rate of Rs.237/- per Are. The Reference Court has determined compensation at the rate of Rs.450/- per Are. This is well within the limits prescribed under the Government Resolution dated 03.11.2016. Accordingly, this appeal can be disposed of in terms of the State's own policy as set out in Government Resolution dated 03.11.2016. However, since the learned A.G.P. had no written instructions for withdrawal of appeal, the matter was heard on merits and is disposed of.

11 For the aforesaid reasons, after clarifying with regard to award of interest, this appeal stands dismissed. There shall be no order as to costs.

(M.S. SONAK)
JUDGE