

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO.777 OF 2005

- 1.The State of Maharashtra,
Through Honourable Collector,
Ahmednagar.
 - 2.The Executive Engineer,
(Mula Project Division),
Upper Pravara Canal Division,
Ahmednagar.
- ...Appellants...
(Orig.Respondents)

Versus

- 1.Smt. Sakharbai w/o Gangaram
Potphode, age 45 years,
- 2.Ashok Gangaram Potphode,
age – 24 years,
- 3.Dhananjay Gangaram Potphode,
age – 22 years,
- 4.Pappunana Gangaram Potphode,
age – 12 years,
- 5.Sangeeta D/o Gangaram Potphode,
age : 15 years,

Nos. 4 and 5 minors through
their minor guardian – mother-
applicant No.1.

- 6.Lahu Babu Potphode,
age : 37 years,

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7.Smt. Punjabai Babu Potphode,
age - 85 years,

8.Smt. Asarabai Mohan Marked,
age - 55 years,

9.Sau. Tulsabai Sonyabapu Aher,
age - 50 years,

All Agriculturists, Nos.1 to 7
residing at Amrapur, Taluka
Shevgaon, District - Ahmednagar.

No. 8 R/o Madhi, Taluka Pathardi,
Dist. Ahmednagar.

No. 9 R/o Bhatkudgaon, Taluka
Shevgaon, Dist. Ahmednagar.

...Respondents...
(Orig.Claimants)

.....

Shri K.N. Lokhande, AGP for appellants.

Shri M.R. Sonawane, Advocate for respondent nos.2 to 6, 8
and 9.

Appeal is abated as per as against respondent nos.1 & 7
as per Registrar's order dated 7.7.2009.

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CORAM: M.S. SONAK, J.

DATE: 17.01.2018

ORAL JUDGMENT :

1] Heard learned AGP for the appellants and
Mr.M.R.Sonawane, learned counsel for the respondent nos.2
to 6, 8 and 9. Appeal as against respondent nos.1 and 7
is abated vide Registrar's order dated 7.7.2009.

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2] Challenge in this appeal is to the award dated 4.12.2004 made by the Reference Court enhancing the compensation in respect of the acquired land from Rs.370/- per Are to Rs.750/- per Are.

3] Learned AGP for the appellant submits that there was no evidence on record to sustain such enhancement. He submits that the Reference Court has granted interest at the rate of 9% p.a. with effect from 1.9.1982 when in fact the Section 4 notification in this case was issued on 21.1.1993. He submits that the authorities under the Land Acquisition Act can only award interest from the date of Section 4 notification and not earlier. He submits that there is no proper evidence on record to indicate that the possession of the acquired land was taken at any stage prior to the issuance of Section 4 notification.

4] Learned counsel for the respondents points out that the appeals against identical awards have already been dismissed by this Court. He points out that the total compensation amount awarded in this case hardly comes to Rs.11,020/-. He submits that the impugned award is based upon the material on record and, therefore, this

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Court may not interfere with the same.

5] From perusal of the material on record, it is quite clear that the impugned award is supported by evidence. Accordingly, there is no necessity to interfere with the impugned award particularly since appeals against virtually identical awards have already been dismissed.

6] That apart, the entire compensation amount involved in this appeal is hardly of Rs.11,020/-. Enhancement is well within the limits prescribed by the State Government in its Government resolution dated 3.11.2016. In terms of this Government resolution where the enhanced amount is less than four times ready reckoner rate prevalent on the date of issuance of Section 4 notification, the Government or its instrumentalities have resolved not to pursue such appeals.

7] Although there may be some substance in the contention of the learned AGP as regards the award of interest, in the peculiar facts of the present case and taking into consideration the paltry amount involved, there is no reason to interfere with the impugned award.

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8] This appeal is, therefore, dismissed. There shall be no order as to costs.

9] In view of dismissal of appeal, Civil Application No.9377/2005 does not survive and is disposed of as such.

(M.S. SONAK, J.)