

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO. 5107 OF 2016

The Executive Engineer Medium
Irrigation Project Division Jalgaon

.. Petitioner

Versus

Sanjay Ramesh Gujrathi and others

.. Respondents

WITH

WRIT PETITION NO. 10989 OF 2015

Sanjay Ramesh Gujrathi and others

.. Petitioner

Versus

The State of Maharashtra and

.. Respondents

Miss. Chaitali R. Kutti-Choudhary, Advocate for Petitioner.

Shri. A. R. Devkate, Advocate for Petitioner in Writ Petition No.
10989/2015.

Shri. S. B. Pulkundwar, A.G.P. for Respondent/State.

**CORAM : S.V. GANGAPURWALA AND
R. G. AVACHAT, JJ.**

DATED : 24th October, 2018

PER COURT:

. Writ Petition No. 5107 of 2016 challenges the rental compensation awarded by the SLAO on enhanced compensation amount granted by the reference court in a reference filed by the present respondent.

2. Writ Petition No. 10989 of 2015 seeks implementation of the order of the SLAO granting the rental compensation on the enhanced amount of compensation granted by the reference court.

3. We have heard the learned advocates for the parties.

4. The learned advocate for the acquiring body submits that the acquiring body has challenged the award passed by the Reference Court under Section 18 of the Land Acquisition Act by filing First Appeal before this Court and same is pending. The learned counsel further submits that the rental compensation has been awarded by the SLAO on enhanced amount of compensation without hearing the acquiring body. The learned counsel further submits that the rental compensation/interest has been granted till the date of award. Even as per law the same can be granted only till the issuance of notification 4 of the Land Acquisition Act. The order of the SLAO is erroneous on this ground also.

5. The learned advocate for the claimant accepts that the SLAO ought to have granted interest by way of rental compensation only till the date of notification under section 4 of the Land Acquisition Act.

6. The award passed by the reference court under section 18 of the Land Acquisition Act has been assailed by the acquiring body by filing the First Appeal before this court. The delay is yet to be condoned.

7. It is a settled preposition that the rental compensation has to be awarded on the compensation amount as is granted at the rate of 8% from the date of possession till the date of notification under Section 4 of the Land Acquisition Act. The SLAO while passing the order dated 18.02.2014 granting rental compensation has committed an error by granting the same till the date of award. The same is erroneous to that extent. The order of SLAO deserves to be set aside.

8. The order dated 18.02.2014 granting rental compensation to the extent that it grants the interest till the date of award is set aside and it is held that the claimant is entitled for the rental compensation at the rate of 8% and 6% interest over 8% only till the date of notification under section 4 of the Land Acquisition Act from the date of possession.

9. It is submitted that the matter is kept before the First Appellate Court on 31st October, 2018. The SLAO shall recalculate the amount as directed above within a period of six (06) weeks from today.

10. The acquiring body shall pay the amount as recalculated pursuant to this order and subject to the orders passed before the First Appellate Court in the appeal filed by the acquiring body within a period of three months thereafter. Writ petitions are accordingly disposed of. No costs.

[R. G. AVACHAT, J.]

[S. V. GANGAPURWALA, J.]

ass/wp 5107.16