

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 5094 OF 2017

The State of Maharashtra and others .. Appellants

Versus

Rohit Sopanrao Suryawanshi .. Respondent

Shri. A.S. Bajaj, Advocate for Appellants.

Shri. V.G. Mete, advocate for Respondent No. 1.

**WITH
CIVIL APPLICATION NO. 1131 OF 2017**

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATED : 12th February, 2018

PER COURT:

. Mr. Bajaj, the learned advocate for the appellants submits that the reference filed by the respondent has been erroneously allowed by the Reference Court. The SLAO has granted Rs. 3500/- per *Are*. The same was reasonable and proper. Without any evidence on record the Reference

Court has enhanced the compensation amount. The learned counsel further submits that even section 34 interest has been wrongly granted. The possession is taken on 04.10.2006 and on the same date the compensation amount has been paid to the claimant.

2. Mr. Mete, the learned advocate for the respondents submits that the Reference Court has granted very meager amount of enhancement. In fact, the claim of the claimant was much more. The Reference Court has treated the land as seasonally irrigated. The land is situated at bank of Kham river and there is a permanent source of irrigation. The Reference Court ought to have enhanced compensation treating the land as perennially Bagayat land. The interest has been properly granted.

3. As far as the enhancement is concerned, we are not inclined to consider the case of the appellants. The enhancement is only Rs. 56000/- (Rupees Fifty Six Thousand). The Reference Court has treated the land as seasonally irrigated.

4. In case of the present appellants, we are not inclined to consider the merits of the contentions of the Respondents so far as enhancement is concerned as we are not interfering in the present appeal in respect of the

amount of enhancement granted.

5. The interest under section 34 has to be awarded from the date of possession. Possession admittedly is taken after the award is passed. In view of that interest under section 34 could not have been granted from the date of award.

6. The interest under section 34 is to be awarded from the date of possession till the amount of compensation paid as granted in the original award

7. With these observations the appeal stands disposed of. The amount deposited by the appellants is allowed to be withdrawn by the respondent.

8. The Civil Application also stands disposed of.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]