

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

FIRST APPEAL (STAMP) NO.5466 OF 2014

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
Minor Irrigation Division, Jalna
Tq. and Dist. Jalna

...Appellant

Versus

1. Rajaram S/o Niverti Ambhure
Age: Major, Occ: Agri,
R/o.- Shrishti, Tq- Partur,
Dist.- Jalna.

2. The State of Maharashtra
Through the Collector,
Jalna, Dist. Jalna.

3. The Spl. Land Acquisition Officer,
Jalna Dist. Jalna.

...Respondents

...

Mr. Hiraji T. Gaikwad, Advocate for Appellant.
Mr. V.D. Bhise, Advocate for Respondent No.1.

...

CORAM : P.R. BORA, J.

DATED : 25th FEBRUARY, 2019.

ORAL JUDGMENT:-

. In the present appeal, though it was stated to be contended by the learned counsel for the acquiring body that the Reference Court has grossly erred in enhancing the market value of the acquired land, the contentions so raised deserves to be turned down at the threshold.

2. It is revealed that the SLAO had offered the compensation at the rate of Rs.390/- per R and the Reference Court has enhanced it to Rs.488/- per R i.e. by Rs.98/- per R. After having gone through the evidence on record, it does not appear to me that the Reference Court has committed any error in enhancing the amount of compensation. There seems no merit in the objection so raised.

3. The learned counsel for the acquiring body sought to contend that the connected appeals arising out of the same acquisitions are admitted by this Court however, it is brought to my notice that in those appeals the compensation awarded by the Reference Court towards trees is subjected to challenge. There is no such issue in the present matter.

4. There however appears substance in the objection raised that the Reference Court has erred in awarding the interest under Section 28 of the Land Acquisition Act from the date of issuance of Section 4 notification. In view of the law laid down by the full bench of this Court in the case of **"The State of Maharashtra Vs. Kailash Shiva**

Rangari, 2016 (4) All M.R. 513", the interest under Section 34 of the Act can only be awarded from the date of passing of the award under Section 11 of the act and not from any prior date. Relying on the full bench judgment of this Court, it has been held by the learned Single Judge of this Court in the case of **State & Ors Vs. Ramesh Tukaram Meshram, 2018(3) Mh.L.J. 616**, that interest under Section 28 of the Act also can be granted only from the date of passing of the award under Section 11 of the Act. In the present case, the Reference Court has awarded the interest under Section 28 of the Act from the date of issuance of Section 4 notification. In the circumstances, the impugned award needs to be set aside to the aforesaid extent. Hence, the following order:

ORDER

- i) The impugned award so far as it relate to grant of interest under Section 28 of the Act from the date of issuance of Section 4 notification stands set aside; instead such an interest is made payable from the date of passing of the award under Section 11 of the Act.
- ii) The award be modified accordingly.

(4)

iii) From the amount of compensation deposited by the acquiring body in this Court, the claimants are permitted to withdraw the amount which may be found payable to them as per the modified award along with interest accrued thereon.

iv) The appeal thus stands partly allowed in the aforesaid terms.

v) Pending civil applications, if any, stand disposed of.

(P.R. BORA, J.)

Mujaheed//