

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2165 OF 2019

- 1) Executive Engineer,
Upper Penganga Project Division No.8,
Nanded Under Godawari Marathwada
Irrigation Development Corporation
Aurangabad. Acquiring Body,
(Ori.Respd.3)
- 2) The State of Maharashtra,
Through Collector, Nanded.
- 3) The Special Land Acquisition Officer,
PT/MIW-1, Nanded. (Ori.Respd.1,2)
...Appellants.

VERSUS

Devrao s/o Mahadu Gomse,
Age 65 years, Occupation Agriculture,
R/o Gortha Taluka Umari Dist.Nanded. **...Respondent**
(Ori.Claimant)

....

WITH
FIRST APPEAL NO.2166 OF 2019

- 1) Executive Engineer,
Upper Penganga Project Division No.8,
Nanded Under Godawari Marathwada
Irrigation Development Corporation
Aurangabad. Acquiring Body,
(Ori.Respd.3)
- 2) The State of Maharashtra,
Through Collector, Nanded.
- 3) The Special Land Acquisition Officer,
PT/MIW-1, Nanded. (Ori.Respd.1,2)
...Appellants.

VERSUS

Shantabai w/o Anandrao Kadam,
Age 65 years, Occupation Agriculture,
R/o Gortha Taluka Umari Dist.Nanded.

...Respondent
(Ori.Claimant)

...

WITH
FIRST APPEAL NO.2167 OF 2019

- 1) Executive Engineer,
Upper Penganga Project Division No.8,
Nanded Under Godawari Marathwada
Irrigation Development Corporation
Aurangabad. Acquiring Body,
(Ori.Respd.3)
- 2) The State of Maharashtra,
Through Collector, Nanded.
- 3) The Special Land Acquisition Officer,
PT/MIW-1, Nanded. (Ori.Respd.1,2)
...Appellants.

VERSUS

Haridas s/o Dattarao Chavan,
Age 60 years, Occupation Agriculture,
R/o Gortha Taluka Umari Dist.Nanded.

...Respondent
(Ori.Claimant)

....

Advocate for Appellant No.1 : Mr. B. R. Surwase.
Advocate for Respondents : Mr. A. D. Hande.

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 03-09-2019.

ORDER :

1. Since all these appeals have been filed by the acquiring body challenging only the part of Judgment and award passed by reference Court i.e. Civil Judge, Senior Division, Bhokar Dist. Nanded in LAR No.262 of 2010 on 07-09-2011, LAR No.276 OF 2010 ON 07-09-2011, and LAR No.265 of 2010 on 05-03-2012, I heard the common arguments in all these appeals and I deem it appropriate to decide these appeals by a common reasoning.

2. At the outset, it can be said that the scope of the appeals is limited to the extent of awarding of interest on the enhanced amount. Heard learned Advocate Mr. B. R. Surwase for appellant No.1 and learned advocate Mr. A. D. Hande for respondent/claimant.

3. The present respondents / original claimants had filed reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') for getting enhancement in the compensation that was granted by original respondent No.2 Special Land Acquisition Officer. Claimant in LAR No.262 of 2010 was the owner and possessor of land admeasuring 1 Hectare 11 R out of the land Block No.17/A/1, claimant in LAR No.276 of 2010 was the owner of of land admeasuring 0 Hectare

75 R out of land Block No.81/A, and claimant in LAR No.265 OF 2010 was the owner and possessor of land admeasuring 2 Hectare out of land Block No.82, situated at village Gortha Tq. Umri Dist. Nanded. The award was passed by original respondent No.2 on 19-12-2007 under Section 11 of the Act. Being dissatisfied with the rate that was granted, the said reference were filed and after taking into consideration the evidence and hearing both sides, the learned reference Court has enhanced the said rate at Rs.2,70,000/- per Hectare. The interest under Section 28 of the Act has been granted for the first year at the rate of 9 % per annum form the date of taking possession and thereafter it has been granted at the rate of 15 % per annum. So also interest under Section 34 of the Act has been granted and this is the part which is under challenge.

4. The learned advocate for appellant No.1 submitted that, these rates have been wrongly given from the date of possession, when as per the decision of the Full Bench in, *State of Maharashtra Vs. Kailash Shiva Rangari*, reported in *AIR 2016 Bombay 141*, it should be from the date of award.

5. There is substance in the submissions made by appellant No.1. The decision given by Full Bench deserves to be followed, though it has come later in point of time then the award was passed in these appeals.

Yet, since the appeals are the continuation, the said decision will have to be made applicable. Hence, appeals deserve to be partly allowed as follows ;

ORDER

(i) Appeals are hereby partly allowed.

(ii) The Judgment and award passed by Civil Judge, Senior Division, Bhokar Dist. Nanded in LAR No.262 of 2010 on 04-05-2012, LAR No. 276 of 2010 on 07-09-2011 and in No. 265 of 2010 on 05-03-2012 is hereby set aside to the extent of award of interest under Sections 28 and 34 of the Land Acquisition Act and it is modified as follows ;

“(a) Original claimants are entitled to interest under Section 28 of the Land Acquisition Act on the enhanced compensation, solatium and component amount @ of 9 % per annum from the date of award i.e. 19-12-2007 till deposit of enhanced compensation, solatium and component amount in the Court.”

“(b) If this enhanced compensation and solatium amount with interest thereon is not deposited till 19-12-2008, the claimants are entitled to interest @ of 15 % per annum from 20-12-2008 till the date of deposit of entire compensation amount and solatium amount in the Court.”

“(c) Claimants are entitled for interest under Section 34 of the Land Acquisition Act on the compensation amount awarded by Collector @ of 9 % per annum from the date of award i.e. 19-12-2007 till acceptance of compensation amount by claimants.”

(iii) Modified award be drawn accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.