

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

69 FIRST APPEAL NO.1422 OF 2019
WITH CA/181/2019 IN FA/1422/2019

THE EX. ENGINEER, UPPER PENGANGA PROJECT NO. 6 NANDED
VERSUS

USHATAI SHRIDHARRAO DESHMUKH AND ORS

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Mr. A.D. Gadekar, Advocate for the appellant

Mr. G.R. Ingole, Advocate for the respondent No.1

Mr. R.B. Bagul, AGP for the respondent Nos.2 and 3

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 22nd JULY, 2019

PER COURT :

1 Present appeal has been filed by the acquiring body challenging the Judgment and Award passed by learned Civil Judge Senior Division, Bhokar, Dist. Nanded in L.A.R. No.345/2010 (Old L.A.R. No.51/2010) dated 15.10.2016, which was the reference under Section 18 of the Land Acquisition Act, 1894.

2 Today the learned Advocate appearing for the appellant-acquiring body, on instructions from the acquiring body, making statement that the acquiring body is accepting the market rate or value, that has been arrived at by the reference Court and the appeal is now restricted to the

interest, that has been granted under Section 28 of the Land Acquisition Act. He submitted that the learned reference Court has granted the said interest from the date of possession. However, in view of the decision in **State of Maharashtra vs. Kailas Shiva Rangari, 2016 (4) ALL M.R. 513 (FB)**, it ought to have been from the date of Award. The learned Advocate appearing for respondent No.1 has also filed the communication received by him from respondent No.1 stating that whatever amount would be given as per rules is acceptable to her. Learned AGP also submits that rate of interest should be as per the decision of the Full Bench of this Court.

3 Taking into consideration the fact that now the appellant is giving up the point raised in the appeal memo in respect of the market value and restricting the appeal to the extent of interest, the appeal deserves to be partly allowed. That interest, that has been granted under Section 28 of Land Acquisition Act by the reference Court deserves to be modified. It will start from the date of Award. Accordingly, the appeal stands disposed of. After re-calculating the amount, the amount as per the Award be given to the respondent No.1 and excess, if any, be refunded to the appellant. Civil Application stands disposed of.

(Smt. Vibha Kankanwadi, J.)