

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

FIRST APPEAL NO.491 OF 2003

The State of Maharashtra
through Collector, Osmanabad.

...Appellant
(Ori. Respondent)

V/s.

Nanasaheb Dattatraya Thirthkar
age 30 yrs, occu. Agri., r/o Deolali
Tq. & Dist. Osmanabad.

... Respondent
(Ori. Claimant)

...
Mr. B. V. Virdhe, A.G.P. for Appellant
...

CORAM : ANIL S. KILOR, J.

DATE : 30th APRIL, 2021

...

ORAL JUDGMENT :

1. The present Appeal is arising out of the Judgment and Award, dated 27-04-1994 passed by the Civil Judge Senior Division, Osmanabad, in Land Acquisition Reference No. 578 of 1991 enhancing the amount of compensation from Rs.26,404/- to Rs.65,400/-, towards land acquired.

2. The land-in-question was acquired for Ruibhar Medium Project at village Deolali, Taluka and District Osmanabad. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was issued on 10-09-1985 and the Award was passed on 30-03-1988. Being dissatisfied with the amount granted by the Land Acquisition Officer to the tune of Rs.26,404/- towards compensation, a Reference

under Section 18 of the Land Acquisition Act was preferred by the claimant, in which the amount has been enhanced at Rs.65,400/- towards compensation. The said enhancement is questioned in the present Appeal.

3. I have heard the learned AGP appearing for the appellant-State. None for the respondent-claimant, though served.

4. The learned AGP urges that the grant of enhancement is erroneous. He further points out that as per the Judgment of Full Bench of this Court in the case of ***State of Maharashtra Versus Kailash Shiva Rangari***¹, the operative part of the order needs to be modified as regards the grant of interest. It is submitted that the interest ought to have been granted from the date of award, however, it has been granted from the date of notification under Section 4 of LA Act.

5. To consider the contentions raised by the learned AGP, I have gone through the record and proceedings and also perused the impugned Judgment and Award.

6. There is one more reason for dismissing the Appeal and that is, during the pendency of present appeal, the State Government has come up with a policy decision vide Government Resolution dated 03-11-2016 and subsequent a corrigendum dated 23-02-2017 issued in that regard, wherein it has been resolved that mere the amount enhanced by the learned Reference Court is not more than four times than the amount granted by the Special Land Acquisition Officer, in such matters, no appeal shall be filed or contested. In the present matter, admittedly the total amount granted by Land Acquisition

Officer was Rs.26,404/-, whereas, it has been enhanced to Rs.65,400/- i.e. not more than four times.

7. Even while the matter is considered on merit and after going through the record and proceedings and on perusing the impugned Judgment and Award, it is revealed that in paragraph No.12 of the Judgment, the learned Reference Court has considered valuer's report and necessary deductions were also made as per the settled position of law.

8. Moreover, it is clear from the impugned Judgment and Award that the learned Reference Court has scrutinized the oral as well as documentary evidence and thereupon arrived at the conclusion as regards the enhancement of compensation. No perversity has been pointed out by the learned AGP in this matter or nothing has been brought on record contrary to the findings given by the learned Reference Court. Thus, in the above backdrop, I do not find any merit in the present Appeal.

9. However, the interest granted by the learned Reference Court, from the date of notification is contrary to the law laid down in the Judgment of Full Bench of this Court in the case of ***Kailas Shiva Rangari (supra)***. The interest ought to have awarded from the date of Award. Therefore, the impugned Judgment and Award needs to be modified. Accordingly, I pass the following order :-

ORDER

1. The First Appeal is partly allowed.
2. The clause No. (iii) of operative part of the Judgment and Award, dated 27-04-1994 passed by the Civil Judge Senior

Division, Osmanabad, in Land Acquisition Reference No. 578 of 1991, is modified, and, it is held that the claimant is entitled for the interest under Section 28 of the Land Acquisition Act, 1894, from the date of Award. For the first year the interest would be at the rate of 9 % per annum and for the subsequent period it would be at the rate of 15 % per annum till realization of the entire amount of the Award.

3. The Appeal is disposed of.
4. No order as to costs.

(ANIL S. KILOR, J.)

shp/-