

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

FIRST APPEAL NO.775 OF 2002

The State of Maharashtra

**...APPELLANT
(Orig. Respondent)**

VERSUS

Dhondiba Tukaram Shelke,
Age-Major, Occu:Agri.,
R/o-Wadgaon/Chinchpur Pangul,
Taluka-Pathardi,
District-Ahmednagar.

**...RESPONDENT
(Orig. Claimant)**

...
Mr.S.S. Dande, A.G.P. for Appellant.
Mr.S.L. Bhapkar Advocate for Respondent.
...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL ORDER :

1. This is an appeal arising out of Judgment and award dated 23rd November 1990 passed by the IInd Joint Civil Judge, Senior Division, Ahmednagar in Land Reference No. 34 of 1986

granting enhancement to the tune of Rs.800 per R for irrigated land and Rs.335/- per R for non-irrigated land.

2. I have heard learned counsel for the respective parties.

3. Learned AGP submits that the amount granted by the learned reference court is exorbitant and the reference court failed to consider the sale instances considered by the Special Land Acquisition Officer while issuing the award.

4. On the other hand the learned counsel for the claimant, supports the impugned Judgment and award.

5. After going through the record and proceedings and on perusing the impugned Judgment and award, I have no hesitation to hold that the learned reference court after considering relevant factors for determining the amount of compensation has rightly arrived at Rs.800/- per R in relation to irrigated land and Rs.335/- per R for non-irrigated land. In absence of any perversity in the impugned Judgment and award

or in absence of any contra evidence I do not find any merit in this matter, therefore, no interference is needed in this matter.

6. Moreover, there is no dispute that enhanced amount of compensation is within four times than the amount awarded by the Special Land Acquisition Officer. In view of the policy decision of the State Government, as per Government Resolution dated 3rd November 2016 and corrigendum issued to the to the same, whereby it was resolved not to file or contest any appeal wherein the amount is well within four times and therefore, on this count also, I do not find any reason to interfere with the Judgment and award impugned in the present matter.

7. However, the Judgment and award requires to be modified to the extent of the amount of interest under Section 28 of the Land Acquisition Act which is granted from the date of possession, whereas it should have been from the date of award as per the Judgment of the Full Bench of this Court in a case of ***State of Maharashtra vs. Kailash Shiva Rangari***¹.

1 2016(4) ALL MR 513 (F.B.)

8. Accordingly, the present appeal needs to be partly allowed, as under:-

ORDER

(I) The appeal is partly allowed.

(II) The clause (3) of the operative part of the Judgment and award dated 23rd November 1990 passed by the IInd Joint Civil Judge, Senior Division, Ahmednagar in Land Reference No. 34 of 1986 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.

(III) No order as to costs.

(IV) Pending cross objection, if any, also stands disposed of.

[ANIL S. KILOR, J.]