

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

FIRST APPEAL NO.430 OF 2003

- 1) The State of Maharashtra,
Through Collector, Parbhani,
- 2) The Spl. Lnd Acq. Officer, PT & IT,
(Purna Project), Kalamnuri,
M.K.V. Parbhani.

**...APPELLANTS
(Orig. Respondents)**

VERSUS

- 1) Bhagwan S/o Apparao Dhone,
Age-59 years, Occu:Agri.,
- 2) Gyanrao S/o Apparao Dhone,
Age-54 years, Occu:Agri.,
- 3) Kanbarao S/o Apparao Dhone,
Age-44 years, Occu:Agri.,
- 4) Narayan S/o Apparao Dhone,
Age-35 years, Occu:Agri.,

All of above R/o-ganjapur
now at Taroda, Tq-Kalamnuri.

...RESPONDENTS

...
Mr.B.V. Virdhe, A.G.P. for Appellants.
None present for Respondents though served.
...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL ORDER :

1. The State Government byway of present appeal, is raising challenge to the Judgment and award dated 11th December 1990 passed in Land Acquisition Reference No. 138 of 1985 by the Civil Judge, Senior Division, Hingoli.

2. The house in question was situated in Kalamnuri Taluka of Parbhani District and in Pusad Taluka of Yeotmal District. The same was acquired for construction of dam. The Special Land Acquisition Officer granted Rs.22,321/- towards total compensation, which has been enhanced to Rs.64,730/- by the impugned Judgment and award.

3. I have heard learned AGP for the State. None for the claimants.

4. Learned AGP opposed the enhancement of amount of compensation on the ground that it is exorbitant and further the

Reference Court has erroneously granted compensation per square meter.

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. The learned Reference Court while determining the amount of compensation, has considered all the relevant factors as per the well settled position of law and thereupon granted Rs.64,730/- towards the enhanced compensation. Learned AGP failed to point out any contrary material in this matter. In the circumstances, I do not find any merit in the appeal.

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. Thus, for the reasons recorded herein above, I do not find any error committed by the learned Reference Court in this matter.

8. 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.

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

ORDER

(I) The appeal is partly allowed.

(II) The clause (5) of the operative part of the Judgment and award dated 11th December 1990 passed in Land Acquisition Reference No. 138 of

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

1985 by the Civil Judge, Senior Division, Hingoli is modified, and it is held that the claimants are 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 civil applications are also disposed of.

[ANIL S. KILOR, J.]

asb/APR21