

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

FIRST APPEAL NO.436 OF 2003

- 1) The State of Maharashtra,
Through Collector, Parbhani,
- 2) The Spl. Land Acq. Officer,
Purna Project, Kalamnuri.

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

VERSUS

Munja S/o Raoji Alse,
Age-50 years, Occu:Agril.,
R/o-Gadibori, Tq-Kalamnuri,
District-Parbhani.

**...RESPONDENT
(Orig. Petitioner)**

...
Mr.S.S. Dande Advocate for Appellants.
None present for Respondent though served.
...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL ORDER :

1. The present appeal is arising out of the Judgment and award dated 7th September 1990 passed by the Civil Judge, Senior Division, Hingoli in Land Acquisition Reference No. 307 of 1984.

2. The house No. 66 owned by the claimant was acquired by the State. The total area of the house was 93.69 square meter and out of the same 85.93 square meter was built up area and rest of the area was open space. The house was acquired for the purpose of sub-merger under Isapur dam Upper Penganga Project, village Gadi – bori, Taluka – Kalamnuri.

3. In the award, the Special Land Acquisition Officer has granted Rs.4874.34/- towards total compensation. The learned Reference Court has granted enhanced compensation to the tune of Rs.10,000/-.

4. I have heard the learned AGP, who opposed the grant of Rs.10,000/- towards enhanced compensation on the ground that the amount is exorbitant.

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 reasoning recorded by the learned Reference Court in Paragraph Nos. 14 and 15 of the Judgment justifies grant of enhancement. In that view of the matter, I do not find any error committed by the

learned Reference Court in granting Rs.10,000/- towards enhanced compensation.

6. Moreover, there is one additional reason for dismissal of the appeal and the same is that, 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. In the present matter, admittedly the amount of compensation granted by the Reference Court is well within four times than the compensation awarded by the Special Land Acquisition Officer.

7. Thus, for the reasons recorded herein above, I do not find any merit in the present appeal.

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.

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

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 7th September 1990 passed by the Civil Judge, Senior Division, Hingoli in Land Acquisition Reference No. 307 of 1984 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 civil applications are also disposed of.

[ANIL S. KILOR, J.]