

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

FIRST APPEAL NO.538 OF 2003

The State of Maharashtra,
(Through the Special Land Acquisition
Officer, Jalgaon, District-Jalgaon)

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

VERSUS

Babulal Gaba Patil,
Age-50 years, Occu:Cultivator,
R/o-Mukhpat, Taluka-Erandol,
District-Jalgaon

**...RESPONDENT
(Orig. Applicant)**

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FIRST APPEAL NO.539 OF 2003

The State of Maharashtra,
(Through the Special Land Acquisition
Officer, Jalgaon, District-Jalgaon).

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

VERSUS

Pirmohammad Rajmohammad,
Age-50 years, Occu:Farmer,
R/o-Mukhpat, Taluka-Erandol,
District-Jalgaon

**...RESPONDENTS
(Orig. Applicant)**

...
Mr.S.S. Dandé, A.G.P. for Appellant in both Appeals.
None present for Respondents though served.
...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :

1. These are the appeals arising out of common Judgment and award dated 11th February 1993 passed by the Civil Judge, Senior Division, Jalgaon in Land Acquisition Reference No. 57 of 1989 and Land Acquisition Reference No. 115 of 1989.

2. The land in question situated at village Mukhpat, Taluka-Erandol, District-Jalgaon was acquired for construction of M.I. Tank, Padmalaya. The Notification under Section 4 of the Land Acquisition Act was issued on 31st March 1980 and the award was passed on 17th December 1981 by the Special Land Acquisition Officer thereby granting approximately Rs.55/- per R towards compensation, which has been enhanced by the Reference Court, upon Reference filed by the claimants under

Section 18 of the Land Acquisition Act, to the tune of Rs.240/- per R.

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

4. The learned AGP submits that the amount granted by the learned Reference Court is exorbitant and furthermore the interest under Section 28 of the Land Acquisition Act has been granted by the learned Reference Court from the date of possession and not 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.

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. The learned Reference Court, while arriving at the enhanced amount of compensation, has considered all the relevant factors as per the well settled principles of law and discussed those factors in the Judgment, more particularly in

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

Paragraph No.8. The sale instances are the basis for enhancement of the amount of compensation, contrary to which nothing has been brought on record by the appellant in this matter.

7. In that view of the matter, I do not find any error committed by the Reference Court in granting enhanced compensation to the tune of Rs.240/- per R.

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***, (supra).

9. Accordingly, the present appeals need to be partly allowed, as under:-

ORDER

(I) The appeals are partly allowed.

(II) The clause (5) of the operative part of the Judgment and award dated 11th February 1993 passed by the Civil Judge, Senior Division, Jalgaon in Land Acquisition Reference No. 57 of 1989 and Land Acquisition Reference No.115 of 1989 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.

[ANIL S. KILOR, J.]