

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 831 OF 2003

The State of Maharashtra
 Through Special Land Acquisition Officer,
 Jalgaon.

.. Appellant
 (Original Respondent)

Versus

Radheshyam Omkardas Agrawal,
 Age 30 years, Occu. Agril.,
 R/o. Bhusawal, District Jalgaon.

.. Respondent
 (Original Claimant)

...

Mr. B. V. Virdhe, AGP for Appellant.
 Mr. S. S. Bora, Advocate for Respondent.

...

CORAM : ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :-

The appellant- State of Maharashtra has approached to this Court by way of present appeal, challenging the Judgment and Award, dated 16-03-1991 passed by the learned Joint Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No. 57 of 1986, enhancing the amount of compensation from Rs.250/- per R. to Rs.750/- per R.

2. The land-in-question in this appeal is situated at village Shirsale, Taluka Bhusawal, District Jalgaon and owned by the respondent-claimant. The said land was acquired for the construction of percolation tank at Shirsala.

3. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was published in Government Gazette on 24-06-1976 and Award was declared on 17-03-1983.

4. The Special Land Acquisition Officer awarded compensation to the tune of Rs.19,941/-, which was found by him to be inadequate by the claimant, and therefore, Reference was made by him, in which, the amount was enhanced to Rs.1,53,000/-.

5. I have heard learned AGP appearing for the appellant and Mr. Bora, learned counsel appearing for the respondent-claimant.

6. The learned AGP submits that the amount enhanced by the learned Reference Court is exorbitant and the learned Reference Court has committed error in not considering the case of Land Acquisition Officer in its right perspective.

6.1 He has further pointed out that the amount of interest under Section 28 of the L.A.Act has been granted from the date of possession, whereas, it should have been from the date of Award as per well settled principle of law laid down in a Judgment of the Full Bench of this Court in the case of *State of Maharashtra Versus Kailash Shiva Rangari*¹.

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

7. On the other hand, Mr. Bora, learned counsel appearing for the claimant supports the impugned Judgment and Award and submits that there is no perversity committed by the learned Reference Court while granting enhanced compensation. Whereas, he fairly states that the operative part of the order as regards grant of interest from the date of possession needs to be modified in view of the Judgment of Full Bench in a case of *Kailash Shiva Rangari (supra)*.

8. To consider the rival contentions of the parties, I have gone through the record and proceedings and also perused the impugned Judgment and Award. From the Judgment and Award, it is revealed that the learned Reference Court after scrutinizing the oral as well as documentary evidence on record and also after considering the relevant factors as well as well settled principles of law has arrived at the amount of enhanced compensation.

9. The learned Reference Court has considered the location of the land as well as the other factor namely sale instances produced by the claimant and recorded its findings in paragraphs No. 7 and 8 of the impugned Judgment. The learned AGP failed to point out any perversity in the findings recorded by the learned Reference Court and also failed to point out any contra evidence. In that view of the matter, I do not find any merit in the present appeal.

10. However, to the extent of grant of interest from the date of Award in view of the Judgment of Full Bench of this Court in the case of *State of Maharashtra Versus Kailash Shiva Rangari (supra)*, I am of the opinion that the operative part of the impugned Judgment and award needs to be modified. Accordingly, I pass the following order :-

ORDER

- (I) The appeal is partly allowed.
- (II) The clause in regard to awarding of interest in the operative part of the Judgment and Award dated 16-03-1991 passed by the learned Joint Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No. 57 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 @ 9% per annum and for the subsequent period it would be @ 15% per annum till realization of the entire amount of the Award.
- (III) The appeal is disposed of.
- (IV) No order as to costs.

(ANIL S. KILOR)
JUDGE