

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1046 OF 2003

1] The State of Maharashtra
Through Collector, Parbhani

2] The Special Land Acquisition
Purna Project, Kalamnuri

.. Appellant

Versus

Shivaji S/o Dagdu

.. Respondent

AND
CIVIL APPLICATION NO. 4007 OF 1994
(The State Vs. Shivaji S/o Dagdu)

...

Mr. B. V. Virdhe, AGP for Appellant-State

Mr. A.B. Kale, Advocate for the respondent

...

CORAM : ANIL S. KILOR, J.
DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeal is arising out of the Judgment and Award dated 25-04-1991 passed in Land Acquisition Reference No. 15 of 1985 by the learned Reference Court, enhancing the amount of compensation for the acquired land.

2. The land-in-question acquired is house property of the claimant. The Section 4 Notification was issued on 21-07-1977. Thereafter, Award was passed on 08-10-1980. Feeling dis-satisfied with the amount of compensation granted by the Special Land Acquisition Officer, Reference was preferred under Section 18 of the Land Acquisition Act, 1894 in which the amount has been enhanced to the tune of Rs.55,651/- from Rs.15,365/-. The said Judgment and Award is under challenge in this Appeal.

3. I have heard the learned AGP for the appellant-State of Maharashtra and learned counsel for the respondent-claimant.

4. The only ground challenging the impugned Judgment and Award is that, the amount granted by the learned Reference Court is exorbitant. It is pointed out that the interest under Section 28 of the L.A. Act ought to have granted from the date of Award but has been granted from the date of notification under Section 4 of the L. A. Act, contrary to Judgment of the Full Bench of this Court in a case of ***State of Maharashtra Versus Kailash Shiva Rangari***¹.

5. To consider the rival contentions of the parties, I have gone through the record and proceedings and also the impugned Judgment and Award.

6. After going through the Judgment and Award, it is revealed that the learned Reference Court has scrutinized the oral as well as documentary evidence available on record in detail, while determining the construction cost. The learned Reference Court has also considered the relevant factors which are to be taken into consideration as per the well settled principles of law, while arriving at a just and fair compensation.

7. The learned Reference Court has considered the oral evidence of the Architect at Exhibit-27 who had personally visited the spot and prepared the report with assessment and valuation of the construction. He has also prepared map at Exhibit-16 in which it was noted that there were three types of constructions. The learned Reference Court however without going into that, has considered general value and arrived at a reasonable compensation of Rs.140/- per square meter and total compensation of Rs.55,651/-. Thus, the learned Reference Court has properly determined the value of the construction.

1 2016(4) ALL MR 513 (FB.)

8. Nothing has been brought on record by the appellant in this matter to show contrary or to show perversity in the findings recorded by the learned Reference Court. In that view of the matter, I do not find any merit in the present matter.

9. However, in view of the Judgment of Full Bench in ***State of Maharashtra Versus Kailash Shiva Rangari (supra)***, operative part of the impugned Judgment and Award needs to be modified and the interest awarded by learned Reference Court 'from the date of taking possession of the land' needs to be granted 'from the date of Award'.

10. Accordingly, the present Appeal is partly allowed as under :

ORDER

- (I) The Appeal is partly allowed.
- (II) The operative part of the impugned Judgment and Award passed by the Reference Court 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 @ 9% per annum and for the subsequent period, it would be @ 15% per annum till realization of the entire amount of the Award.
- (III) No order as to costs.
- (IV) In view of disposal of First Appeal, Civil Application no. 4007 of 1994 stands disposed of.

(ANIL S. KILOR)
JUDGE

arp/-