

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

**FIRST APPEAL NO.422 OF 2003
WITH CIVIL APPLICATION NO. 4412 OF 1995**

The State of Maharashtra
through The SLAO UTP., Jalgaon

...Appellant
(Original Respondent)

VERSUS

Dharmaraj Baburao Patil,
age : 40 years, Occu : Farmer,
r/o Veruli Kd., Tq. Pachora,
Dist. Jalgaon.

... Respondent
(Original claimant)

...
Mr. S. S. Dande, A.G.P. for Appellant.

...
CORAM : ANIL S. KILOR, J.

DATE : 30th APRIL, 2021

ORAL JUDGMENT :

1. This is an appeal preferred by the appellant - State of Maharashtra, challenging the Judgment and Award, dated 22-04-1994 passed in L.A.R. No. 380 of 1991 by the learned Civil Judge, Senior Division, Jalgaon, enhancing the compensation from Rs.76,399/- to Rs.1,21,270/- towards land acquired.

2. The land-in-question was acquired for Bahula Dam at village Veruli Kd, Taluka Pachora, District Jalgaon. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was issued on 04-05-1978 and Award was passed on 28-08-1986.

3. I have heard the learned AGP. Though, the appearance was caused on behalf of respondent-claimant, however, no one is present.

4. In fact, this Appeal needs to be disposed only on the ground that during the pendency of this Appeal, the State Government has formulated a policy and thereby it has been decided that in land acquisition matters, where the amount of compensation enhanced by the learned Reference Court in reference under Section 18 of the Land Acquisition Act, 1894, is not more than four times of the total amount of compensation granted by the Special Land Acquisition Officer, in such matters appeal shall not be filed or contested.

5. Such policy decision was taken by the State of Maharashtra vide Government Resolution dated 03-11-2016 and subsequently a corrigendum dated 23-02-2017 was issued in that regard.

6. Admittedly, in this matter the total amount of compensation granted by the Land Acquisition Officer was Rs.76,399/-, whereas, the amount enhanced is Rs. 1,21,270/-, which is not more than four times of the amount granted by the Land Acquisition Officer. Thus, the present case is covered by the Government Resolution dated 03-11-2016 and corrigendum dated 23-02-2017 subsequently issued in that regard.

7. However, even on merit after going through the Judgment and Award, I do not find any perversity in view of the fact that the learned Reference Court while granting enhancement has scrutinized the oral as well as documentary evidence and also considered the relevant factors to be considered as per the well settled principles of law while arriving at the just and proper compensation. Thus, I do not find any merit in the present Appeal.

8. However, the Clause 5 of the operative part of the Judgment and Award needs to be modified whereby the interest is granted from the date of possession which ought to have granted 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*¹. Accordingly, I pass the following order :-

ORDER

1. The First Appeal is partly allowed.
2. The Clause No. 5 of operative part of the Judgment and Award, dated 22-04-1994 passed in L.A.R. No. 380 of 1991 by the learned Civil Judge, Senior Division, Jalgaon, 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.
3. The Appeal is disposed of. No order as to costs.

¹ 2016 (4) All MR 513 (F.B.)

4. In view of disposal of first appeal, nothing further survives for consideration in pending Civil Application, the same stands disposed of accordingly.

(ANIL S. KILOR, J.)

shp/-