

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

FIRST APPEAL NO.445 OF 2003

The State of Maharashtra,
Through Collector, Osmanabad

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

VERSUS

Dhondiram Khandappa Karajkhede,
Age-Major, Occu:Agri.,
R/o-Deolali, Taluka & District-Osmanabad.

**...RESPONDENT
(Orig. Claimant)**

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

...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :

1. Present appeal is arising out of the Judgment and award dated 29th April 1994 passed by the Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No. 6 of 1993.

2. The claimant was the owner of house No. 133 admeasuring 104 X 100 feet. The same was acquired for Ruibhar Medium Project. The award was passed 30th March 1998 and on being dissatisfied with the amount granted under the award by the Special Land Acquisition Officer, the claimant preferred a Reference under Section 18 of the Land Acquisition Act and claimed Rs.3,50,000/- towards enhanced compensation. The learned Reference Court, after scrutinizing oral as well as documentary evidence, enhanced the compensation to the tune of Rs.5,25,000/- and the same is under challenge in the present appeal at the instance of the State.

3. I have heard learned AGP appearing for the State. None for the respondent – claimant.

4. The only ground raised to challenge the impugned Judgment and award, is that the enhancement 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.

6. The claimant, in support of his case for enhancement, has examined himself on oath and one Sharadchandra Mahadeo Parchure, who did valuation in respect of the house.

7. There is no dispute that award 'E' statement shows that 450.89 square meter area was acquired in respect of house No. 113 situated at village Deolali and notification under Section 4 of the Land Acquisition Act was issued on 10th September 1985. The amount of compensation determined by the Special Land Acquisition Officer was on the basis of sale instances of adjacent villages like Ruibhar and Shekapur.

8. The valuer of the house was the Government approved valuer. There is no dispute that the location of house is described in the Judgment and to determine the market value of the acquired house, the Reference Court has considered all the relevant factors as per well settled principles of law.

9. The learned Reference Court has, in detail, considered the location, valuation report, the qualification of the valuer and the nature of structure of the house.

10. Moreover corroborative evidence was produced in respect of the valuation made by the valuer and on the basis of the same, learned Reference Court has arrived at enhanced compensation of Rs.5,25,000/-.

11. Learned AGP failed to point out any contrary evidence or any perversity in granting enhancement to the tune of Rs.5,25,000/-.

12. 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.5,25,000/-.

13. 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 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.)

10. Accordingly, the present appeal needs to be partly allowed, as under:-

ORDER

(I) The appeal is partly allowed.

(II) The clause (vi) of the operative part of the Judgment and award dated 29th April 1994 passed by the Civil Judge, Senior Division, Osmanabad in Land Acquisition Reference No. 6 of 1993, 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.

[ANIL S. KILOR, J.]