

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

FIRST APPEAL NO.454 OF 2003

- 1) The State of Maharashtra,
Through Collector, Nanded,
- 2) The SLAO, PT, MIW,
Nanded.

**...APPELLANTS
(Orig. Respondents)**

VERSUS

Madhav S/o Vithoba,
Age-40 years, Occu:Agril.,
R/o-Talni, Taluka-Biloli

**...RESPONDENT
(Orig. Petitioner)**

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FIRST APPEAL NO.415 OF 2003

- 1) The State of Maharashtra,
Through Collector, Nanded,
- 2) The SLAO, PT, MIW-II,
Nanded.

**...APPELLANTS
(Orig. Respondents)**

VERSUS

Nagarbai W/o Tukaram Yenapatle,
Age-50 years, Occu:Agril.,
R/o-Talni, Taluka-Biloli,
District-Nanded.

**...RESPONDENT
(Orig. Petitioner)**

...
Mr.S.S. Dandé, A.G.P. for Appellants 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 15th October 1991 passed by the Civil Judge, Senior Division, Biloli in Land Acquisition Reference No.6 of 1991, Land Acquisition Reference No.7 of 1991 and Land Acquisition Reference No.8 of 1991, enhancing the compensation from Rs.160/- per R to Rs.325/- per R towards land acquired.

2. In these appeals, lands in question are situated at village Talni, Taluka-Biloli, District-Nanded and the same were acquired for the purpose of construction of Talni Dam. The notification under Section 4 of the Land Acquisition Act was issued on 25th July 1985 and the award was passed on 19th April 1989. The Special Land Acquisition Officer awarded Rs.160/- per R, whereas in the Reference made by the claimants under

Section 18 of the Land Acquisition Act, the Reference Court has enhanced the amount of compensation to Rs.325/- per R.

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

4. The learned AGP opposed the enhancement of amount of compensation on the ground that the same is exorbitant. He further submits that grant of interest under Section 28 of the Land Acquisition Act from the date of possession is contrary to 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 of the learned AGP, I have gone through the record and proceedings and also perused the Judgment and award. It is clear from the record that learned Reference Court, while enhancing the amount of compensation, has considered oral as well as documentary evidence available on record and the sale instances, contrary to which nothing has been brought on record or pointed out by the learned AGP in these matters. In absence of any contrary evidence and more particularly, in view of the fact that the learned Reference Court

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

has determined the amount of compensation after considering the relevant factors as per well settled principles of law as recorded and observed in Para 16 and 17 of the Judgment impugned, I do not find any error committed by the learned Reference Court in these matters.

6. Moreover, now it is a Government policy, as per the Government Resolution dated 3rd November 2016 and corrigendum issued to the same, not to file or contest the matters relating to the acquisition proceedings wherein the compensation awarded by the Reference Court is not more than four times than the compensation granted by the Special Land Acquisition Officer. In the present matters, admittedly the amount of compensation granted by the Reference Court is well within four times than the compensation awarded by the Special Land Acquisition Officer. Therefore, I do not find any substance in the contention of the learned AGP that the amount of compensation granted by the Reference Court is exorbitant.

7. 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).

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

ORDER

(I) The appeals are partly allowed.

(II) The clauses (5) and (6) of the operative part of the Judgment and award dated 15th October 1991 passed by the Civil Judge, Senior Division, Biloli in Land Acquisition Reference No.6 of 1991 and Land Acquisition Reference No.8 of 1991 are 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.]