

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 547 OF 2003

1. The State of Maharashtra
per District Collector, Nanded.

2. The SLAO, MIW, Nanded.

.. Appellant
(Original Respondents)

Versus

Bhimrao Rohoji Bokare,
Age 65 years, Occu. Agri.,
R/o. Rahati, Taluka and District Nanded

.. Respondent
(Original Claimant)

Mr. B. V. Virdhe, AGP for Appellant

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CORAM : ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :-

The present appeal is arising out of the Judgment and Award dated 22nd April, 1994 passed by the learned IIIrd Joint Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 120 of 1993, enhancing the compensation amount from Rs.12,096/- to Rs.36,959/- towards land acquired.

2. The land-in-question in this appeal is situated at village Rahati, Taluka and District Nanded, was owned by the respondent-claimant and the same was acquired for the purpose of submergence area of the water of the reservoir of Vishnupuri Project, Nanded.

3. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was published on 05-04-1984 and Award was declared on 21-05-1987. The Land Acquisition Officer has awarded compensation to the tune of Rs.12,096/- towards total compensation.

4. Being dissatisfied with the amount of compensation granted by LAO, the claimant preferred the Reference under section 18 of the Land Acquisition Act, 1894 (L.A. Act), and thereby prayed for Rs.40,000/- per Acre towards enhanced compensation. The learned Reference Court vide its Judgment and Award dated 22-04-1994 enhanced the amount to Rs.36,959/-. The same is under challenge.

5. I have heard learned AGP appearing for the appellant. Though the notice was served, none appears for the respondent-claimant.

6. Only the ground raised by the learned AGP to challenge the impugned Judgment and Award is that, the learned Reference Court has enhanced compensation amount exorbitantly.

7. Learned AGP has 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.

8. 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. It is clear from the Judgment and Award that, the learned Reference Court, after scrutinizing the available evidence on record and after considering relevant factors as per the settled principles of law, arrived at the conclusion that in the present matter the amount of compensation needs to be enhanced from Rs.12,096/- in addition to amount received by the claimant.

9. After going through the Judgment and Award, it is revealed that the learned Reference Court has considered all the relevant factors to consider the market value as per well settled principles of law. The learned Reference Court has discussed oral as well as documentary evidence on

record in detail and after considering the sale instances and other relevant factors arrived at enhanced amount of compensation.

10. 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 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.

11. 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)*, the impugned Judgment and Award needs to be modified. Accordingly, I pass the following order :-

ORDER

- (I) The first appeal is partly allowed.
- (II) The observation in respect of awarding the interest in paragraph No. 8 of the impugned Judgment and Award dated 22nd April, 1994 passed by the learned IIIrd Joint Civil Judge, Senior Division, Nanded, in Land Acquisition Reference No. 120 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 @ 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