

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 856 OF 2003

- | | |
|--|--|
| 1. The State of Maharashtra
through Collector, Jalgaon. | |
| 2. The Special Land Acquisition Officer,
II Upper Tapi Project, Hatnur, Jalgaon | .. Appellant
(Original Respondents) |

Versus

- | | |
|--|---------------------------------------|
| Bhikaji Jayaram Kasar, (Died) through L.Rs-
Shri. Ramesh Bhikaji Kasar,
Occu. Agri., R/o. Edlabad, Taluka Edlabad,
District Jalgaon | .. Respondents
(Original Claimant) |
|--|---------------------------------------|

Mr. B. V. Virdhe, AGP for Appellant

...

...

CORAM : ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :-

The appellant- State of Maharashtra has approached to this Court by way of present appeal challenging the Judgment and Award dated 23-01-1995 passed by learned 2nd Joint Civil Judge, Senior Division, Jalgaon, in Land Acquisition Reference No. 228 of 1993 enhancing the amount of compensation by Rs.32,513/-.

2. The open land and house in-question have been acquired for II Upper Tapi Project, Hatnur, District Jalgaon. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was published in Government Gazette on 12-04-1984 and the Award was declared on 21-01-1987.

3. The Special Land Acquisition Officer has granted Rs.15/- for open land and Rs.9/- per Square Meter to the constructed house, which was found to be inadequate, therefore, a Reference was made under Section 18 of the Land Acquisition Act, 1894, by the claimant, in which, the

amount has been enhanced to Rs.200/- per Sq.M. for open land and Rs.27,511/- was granted towards house structure. The same is questioned in the present appeal.

4. I have heard learned AGP appearing for the appellants. Despite service of notice, no appearance is caused on behalf of respondent-claimant.

5. The learned AGP points out that the amount granted by the learned Reference Court is exorbitant. Moreover, the Reference Court has not taken into consideration the Award in its right perspective.

6. 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 Rangar*¹.

7. To consider the contentions of the learned AGP, I have gone through the record and proceedings and also perused the impugned Judgment and Award.

8. 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.

9. The learned Reference Court has considered the valuer's report and recorded its reasons in paragraphs No. 7, 8 and 9 justifying enhancement. The learned AGP failed to point out any contra evidence in this matter and also failed to point of perversity in determining amount of enhanced compensation. In that view of the matter, I do not find any merit

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

in the present appeal.

10. 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)***, I am of the opinion that the operative part of 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 clause in respect of awarding the interest in operative part of the impugned Judgment and Award, 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

rrd