

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1206 OF 2004

The State of Maharashtra ... APPELLANT

VERSUS

1. Nandkumar Govind Ghode,
Age- Major, Occup. Agril.,
2. Kailasbai W/o Govind Ghode,
Age-Major, Occup. Agril.,
3. Balasaheb Govind Ghode,
Age- 23 years, Occu. Agri.,
All R/o Daulawadgaon, Tq. Ashti,
Dist. Beed. ... RESPONDENTS
(Original Claimants)

...
 Mr. S.S. Dande, AGP for appellant-State
 Mr. V.D. Hon, Senior Advocate for respondents

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

DATE : 30th 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 17th December, 2003 passed by the learned 3rd Adhoc Additional District Judge, in Land Acquisition Reference No. 557 of 2001, enhancing the amount of compensation towards land acquisition.

2. The land-in-question in this appeal is situated at village Daulawadgaon, Taluka Ashti, District Beed and owned by the respondents-claimants. The said land was acquired for the construction of percolation tank at Daulawadgaon. The notification under Section 4 of the Land Acquisition Act, 1894 (Act of 1894) was published in Government Gazette on 18-08-1991 and Award was declared on 08-02-1995. The Special Land Acquisition Officer awarded compensation to the tune of Rs.100/- per R. Being dissatisfied with the amount granted by the Land Acquisition Officer, the Reference was made under Section 18 of the

Act of 1894 by the claimants, in which the amount has been enhanced to Rs.270/- per R.

3. I have heard the learned AGP appearing for the appellant and Mr. Hon, learned Senior Counsel appearing for the respondents-claimants.

4. The learned AGP submits that the amount enhanced by the learned Reference Court is exorbitant. It is submitted that compensation amount granted by the Special Land Acquisition Officer is fair and just. He has further 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.

5. Per contra, Mr. Hon, learned Senior Counsel appearing for the claimants supports the impugned Judgment and Award and submits that there is no perversity committed by the learned Reference Court while granting enhanced compensation. Whereas he fairly states that the operative part of the order as regards the grant of interest from the date of possession needs to be modified in view of the Judgment of Full Bench in a case of ***Kailash Shiva Rangari (supra)***.

6. To consider the rival contentions of the parties, I have gone through the record and proceedings and also perused the impugned Judgment and Award. From the Judgment and Award, it is revealed that the learned Reference Court after scrutinizing the oral as well as documentary evidence on record and also after considering the relevant factors as per well settled principles of law, has granted at the amount of enhanced compensation. The learned Reference Court has considered the location of the land as well as the other factor namely sale instances produced by the claimants. 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 contrary evidence. In that view of the matter, I do not find any merit in the present appeal.

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

7. Moreover, in view of the Government policy not to file appeal or to contest in the matter wherein the amount awarded by the learned Reference Court is not more than four times than the amount awarded by SLAO, as per Government Resolution dated 03-11-2016 and subsequent corrigendum dated 23-02-2017 issued in that regard, I am of the view that on this count also, the appeal needs to be dismissed.

8. 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 in that regard needs to be modified. Accordingly, I pass the following order :-

ORDER

- (I) The appeal is partly allowed.
- (II) The clauses in regard to awarding of interest in the operative part of the Judgment and Award dated 17th December, 2003 passed by the learned 3rd Adhoc Additional District Judge, in Land Acquisition Reference No. 557 of 2001, is 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 @ 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