

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

FIRST APPEAL NO.544 OF 2003

The State of Maharashtra,

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

VERSUS

- 1) Shivaji S/o Annabhau Phapal,
Age-33 years,
- 2) Abhimanu S/o Annabhau Phapal,
Age-38 years,
- 3) Shalan W/o Shivaji Phapal,
Age-38 years,

All by Occu:Agri. R/o Belura,
Taluka-Majalgaon, Dist-Beed.

**...RESPONDENTS
(Orig. Applicant)**

A N D

FIRST APPEAL NO.549 OF 2003

The State of Maharashtra,

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

VERSUS

Champabai W/o Chandrabhan Phapal,
Age-50 years, Occu:Household and Agril.,
R/o-Belura, Taluka-Majalgaon,
District-Beed.

**...RESPONDENT
(Orig. Applicant)**

...
Mr.B.V. Virdhe, A.G.P. for Appellant 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 2nd May 1991 passed by the IInd Additional District Judge, Beed in Land Acquisition Reference No. 38 of 1988, Land Acquisition Reference No. 39 of 1988 and Land Acquisition Reference No. 40 of 1988, enhancing the compensation from Rs.85/- per R to Rs.375/- per R, towards land acquired.

2. In these appeals, lands in question are situated at village Belura, Taluka-Majalgaon, District-Beed and the same were acquired for the purpose of construction of distributory at R.D. 18300 on M.R.B.C. at village Belura, Taluka-Majalgaon. The notification under Section 4 of the Land Acquisition Act was issued on 3rd October 1985 and the award was passed on

2nd December 1987. The Special Land Acquisition Officer awarded Rs.85/- per R, whereas in the Reference filed by the claimants under Section 18 of the Land Acquisition Act, the Reference Court has enhanced it to Rs.375/- 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.

5. 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 .

6. 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,

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

has considered oral as well as documentary evidence available on record and also the sale instances, contrary to which nothing has been brought on record or pointed out by the learned AGP in these matters.

7. Hence in absence of any contrary evidence and more particularly, in view of the fact that the learned Reference Court has determined the amount of compensation after considering the relevant factors as per well settled principles of law, I do not find any error committed by the learned Reference Court in these matters.

8. 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).

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

ORDER

(I) The appeals are partly allowed.

(II) The clause (3) of the operative part of the Judgment and award dated 2nd May 1991 passed by the IInd Additional District Judge, Beed in Land Acquisition Reference No. 38 of 1988 and Land Acquisition Reference No.40 of 1988 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 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.

(IV) Pending civil applications are disposed of.

[ANIL S. KILOR, J.]