

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1259 OF 2004

The State of Maharashtra
Through the Collector, Osmanabad .. Appellant

Versus

Sitram Madhav Garad .. Respondent

AND
CIVIL APPLICATION NO. 11376 OF 2019

...

Mr. S.S. Dande, AGP for Appellant-State
Mr. R.V. Naiknaware, Advocate for the respondent

...

CORAM : ANIL S. KILOR, J.
DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeal is arising out of the Judgment and Award dated 12-02-2004 passed in Land Acquisition Reference No. 576 of 1991 by the learned Reference Court, enhancing the amount of compensation for the acquired lands.

2. The acquired property in question is a house. The Section 4 Notification was issued on 16-10-1985. Thereafter, Award was passed on 30-03-1988. Feeling dis-satisfied with the amount of compensation granted by the Special Land Acquisition Officer, Reference was preferred under Section 18 of the Land Acquisition Act, 1894 in which the amount has been enhanced to the tune of Rs.20,879/- from Rs.13,418/-. The said Judgment and Award is under challenge in this Appeal.

3. I have heard the learned AGP for the appellant-State of Maharashtra and learned counsel for the respondent-claimant.

4. The only ground challenging the impugned Judgment and Award is that, the amount granted by the learned Reference Court is exorbitant. It is pointed out that the interest under Section 28 of the L.A. Act ought to have granted from the date of Award but has been granted from the date of notification under Section 4 of the L. A. Act, contrary to Judgment of the Full Bench of this Court in a case of ***State of Maharashtra Versus Kailash Shiva Rangari***¹.

5. To consider the rival contentions of the parties, I have gone through the record and proceedings and also the impugned Judgment and Award.

6. After going through the Judgment and Award, it is revealed that the learned Reference Court has scrutinized the oral as well as documentary evidence available on record in detail, while determining the construction cost. The learned Reference Court has also considered the relevant factors which are to be taken into consideration as per the well settled principles of law, while arriving at a just and fair compensation.

7. The learned Reference Court has considered the evidence of the valuer who had applied DSR method for preparation of valuation report to determine the cost of construction. The report is at Exhibit-30 and the valuer has deposed that the valuation of the disputed house was Rs.32,150/-. The learned Reference Court considered that there would be possibility of error to the extent of 20% in determining the valuation, accordingly, 20% amount was deducted and arrived at the amount of Rs.20,879/- which, according to me, is just and fair.

8. Nothing has been brought on record by the appellant in this matter to show contrary or to show perversity in the findings recorded by the learned Reference Court. In that view of the matter, I do not find any merit in the present matter.

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

9. Moreover, in view of the Government policy not to file or contest appeal 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.

10. However, in view of the Judgment of Full Bench in *State of Maharashtra Versus Kailash Shiva Rangari (supra)*, operative part of the impugned Judgment and Award needs to be modified and the interest awarded by learned Reference Court 'from the date of taking possession of the land' needs to be granted 'from the date of Award'.

11. Accordingly, the present Appeal/s is partly allowed as under :

ORDER

- (I) The appeal is partly allowed.
- (II) The clause (4) of the operative part of the impugned Judgment and Award passed by the Reference Court 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) No order as to costs.
- (IV) In view of disposal of First Appeal, pending Civil Application stands disposed of.

(ANIL S. KILOR)
JUDGE

arp/-