

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1055 OF 2003

1] The State of Maharashtra
 2] Spl. Land Acq. Officer III, Jalgaon .. Appellant

Versus

Shri Pandurang Baburao Patil .. Respondent

AND

FIRST APPEAL NO. 1056 OF 2003

1] The State of Maharashtra
 2] Spl. Land Acq. Officer III, Jalgaon .. Appellant

Versus

Shri Keshav Ragho Patil died LR.s. and another .. Respondents

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Mr. S.S. Dande, AGP for Appellant-State

Mr. V.B. Patil, Advocate for the respondents in both FA

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CORAM : ANIL S. KILOR, J.

DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeals are arising out of the Judgment and Award dated 18-10-2001 passed in Land Acquisition References No. 204 of 1993, 205 of 1993 and 211 of 1993 by the learned Reference Court, enhancing the amount of compensation for the acquired lands.

2. The lands-in-question is acquired for the purpose of Hatnur Canal Upper Tapi Project. The Section 4 Notification was issued on 05-03-1987. Thereafter, Award was passed on 04-03-1989. 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.733/- per R from Rs.290/- per R. The said Judgment and Award is under challenge in these Appeals.

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

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 market value. 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 after considering the evidence available on record, held that the land in question is bagayat land and not jirayat land. The learned Reference Court has considered the 7/12 extract which was not challenged by the appellant herein wherefrom it was revealed that the claimant was cultivating perennial crops by irrigating the acquired land by well water. The Court has also observed that there is evidence to show that well was there prior to date of notification and after considering the necessary evidence oral as well as documentary, determined the market value as Rs.1466/- per R for bagayat and Rs.733/- for jirayat land, which is just and proper according to me.

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

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 matters.

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 Appeals need 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 Appeals are partly allowed as under :

ORDER

(I) The Appeals are partly allowed.

(II) 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.

(ANIL S. KILOR)
JUDGE

arp/-