

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

11 FIRST APPEAL NO.492 OF 2004

The State of Maharashtra, Through
Collector Osmanabad

APPELLANT

V E R S U S

Girmalappa Shankarappa Chiloba,
Age 45 years, Occupation Agriculture
and service, Resident of Murum, Tq.
Omerga, District Osmanabad

RESPONDENT

...
Mr. B.V. Virdhe, A.G.P. for the appellant-State
Mr. Bhishek D. Chapule, holding for
Mr. N.P. Patil, Adv. for the respondent
...

CORAM : ANIL S. KILOR, J.

DATE : 30th APRIL, 2021

ORAL JUDGMENT :

The challenge in this appeal is to the Judgment and Award dated 22nd April, 2002, passed by the Joint Civil Judge, Senior Division, Osmanabad, in Land Acquisition Reference No. 459 of 1997, enhancing the amount of compensation from Rs.12,000/- per Hectare to Rs.62,963/- per Hectare. The said enhancement is questioned in the present Appeal.

2. The land in question was acquired for Benetura Medium Project. The Section 4, notification was issued in the year 1987 and Award was passed on 17th February, 1993. The Special Land Acquisition Officer granted Rs.12,000/- per Hectare. Being dissatisfied with the same, reference was preferred by the claimant under Section 18 of the Land Acquisition Act. Thereunder, the Reference Court awarded amount of compensation to Rs.62,963/- per Hectare.

3. I have heard the learned counsel for the respected parties.

4. The learned A.G.P. submits that the enhancement granted by the Reference Court is erroneous and the amount granted by the Special Land Acquisition Officer was just and fair and, therefore, no interference ought to have made by the reference Court. He further points out that in view of the Full Bench Judgment of this Court in the case of ***State of Maharashtra versus Kailash Shiva Rangari***, reported in ***2016 [4] All M.R. 513***, the interest ought to have been granted from the date of Award.

5. Learned counsel appearing on behalf of the claimant supported the impugned Judgment and Award and prays for dismissal of the Appeal.

6. To consider the rival contentions of the parties, I have gone through the record and proceedings and perused the Judgment and Order passed by the learned Reference Court.

7. The learned Reference Court while determining the market value, has applied the relevant factor as per the settled principle of law and thereupon arrived at a conclusion that the claimants are entitled for the enhanced compensation.

8. Admittedly the reference Court has taken into consideration the sale instances produced by the claimant at Exh.23 and observed that the witness of the respondent has not stated anything regarding the market price but just deposed that compensation awarded is adequate. In the present appeal also, nothing has been brought on record contrary to the finding recorded by the learned Reference Court. Therefore, I do not find any reason to interfere in the present Appeal except for the reason to the extent of grant of interest under Section 28 of the Act, in view of the full bench Judgment of this Court in a case of ***Kailash Shiva Rangari*** (supra).

Accordingly, I pass the following order :-

O R D E R

- 1] The Appeal is partly allowed.
- 2] the operative part of Clause (5) of the impugned Judgment and order is modified and thereby interest is granted @9% per annum from the date of Award for the first year and for subsequent period @15% per annum.
- 3] No order as to costs.

(ANIL S. KILOR, J.)