

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 653 OF 2004

The State of Maharashtra
Through Collector, Osmanabad

.. Appellant
(Original Respondent)

Versus

1. Prayagbai w/o. Daulatram Suryanshi, Age 60 years,
2. Kalavati Vankatrao Lokhande, Age 50 years,
3. Roopabai Kondiba Jadhav, Age 45 years,
4. Sojarbai w/o. Gangarao Jadhav, Age 40 years,
Resp. No.1 to 4 Occu. Household,
5. Dnyanoba s/o. Kondiba Chavan, Age 25 years,
Occu. Agri., All R/o. Nagur, Taluka Omerga,
District Osmanabad.

.. Respondents
(Original Claimants)

...

Mr. B. V. Virdhe, AGP for Appellant-State
Respondents-claimants served.

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CORAM : ANIL S. KILOR, J.

DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeal is arising out of the Judgment and Award dated 20-12-2001 passed in Land Acquisition Reference No. 64 of 1990 by the learned Reference Court, enhancing the amount of compensation for the acquired house.

2. The constructed house-in-question is acquired for the purpose of submergence of area of Lower Terana Project of village Makni, Taluka Omerga, District Osmanabad. The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 23-02-1984. Thereafter, the Award was passed on 31-03-1988. Feeling dis-satisfied with the amount of compensation granted by the Special Land Acquisition Officer, a Reference was preferred under Section 18 of the Land Acquisition Act, 1894, in which, the amount has been enhanced to the tune of Rs.81,588/-

from Rs.56,270/- towards acquired house. The said Judgment and Award is under challenge in this Appeal.

3. I have heard the learned AGP for the appellant-State of Maharashtra. Despite service of notice, no appearance is caused on behalf of 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 contentions of the learned AGP, 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 has considered 'E' Statement of the Award at Exhibit-42 and also oral evidence of the valuer and his report at Exhibit-47. The learned Reference Court has rightly considered the Expert's valuation and granted enhancement to the tune of Rs.25,000/- in addition to amount of Rs.56,270/-, which has already been received by the claimants. The said amount of enhancement granted by the learned Reference Court is just and fair 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 matter.

9. Moreover, in view of the Government policy not to file or to 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 house' needs to be granted 'from the date of Award'.

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

ORDER

- (I) The appeal is partly allowed.
- (II) The clause in regard to awarding of interest, in 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

mtk