

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1713 OF 2004
WITH CA/5281/2005 IN FA/1713/2004

State of Maharashtra
Through Collector Osmanabad .. Appellant
(Original Respondent)

Versus

Shri. Bhagwan s/o. Tanarao Limkar (Died),
Through Legal Representatives -
1-A) Devibai w/o. Bhagwan Limkar,
1-B) Gangubai Pandurang Varale,
1-C) Anjanabai Rajaram Mulik,
1-D) Shantabai Bhagwat Lahane,
1-E) Shriram s/o. Bhagwan Limkar,
1-F) Jayram s/o. Bhagwan Limkar,
All R/o. Andrud, Taluka Bhoom,
District Osmanabad. .. Respondents
(Original claimants)

...

AND
FIRST APPEAL NO.1712 OF 2004
WITH CA/5280/2005 IN FA/1712/2004

State of Maharashtra
Through Collector Osmanabad .. Appellant
(Original Respondent)

Versus

Shri. Sudam s/o. Shamrao Limkar
Age Major, Occu. Agril., R/o. Andrud,
Taluka Bhoom, District Osmanabad. .. Respondent
(Original claimant)

...

AND
FIRST APPEAL NO.1715 OF 2004
WITH CA/5279/2005 IN FA/1715/2004

State of Maharashtra
Through Collector Osmanabad .. Appellant
(Original Respondent)

Versus

Shri. Pandharinath s/o. Dagdu Limkar
Age Major, Occu. Agril., R/o. Andrud,
Taluka Bhoom, District Osmanabad. .. Respondent
(Original claimant)

**AND
FIRST APPEAL NO. 1714 OF 2004**

State of Maharashtra
Through Collector Osmanabad

.. Appellant
(Original Respondent)

Versus

(1) Shri. Anna Dhondiba Limkar (Died),
Through Legal Representatives -

1. Devrao Anna Limkar,
2. Vithal Anna Limkar,
3. Bhivrao Anna Limkar,
4. Gendev Anna Limkar,
5. Sau. Rahibai Sarjerao Murumkar,
6. Shobha Sheshrao Gayakwad,
R/o. Jategaon, Taluka Jamkhed,

(2) Shri. Subhas Laxman Limkar,
All Age Major, R/o. Andrud, Taluka Bhoom,
District Osmanabad

.. Respondents
(Original claimants)

...

**AND
FIRST APPEAL NO.1716 OF 2004 WITH CA/5283/2005 IN FA/1716/2004**

State of Maharashtra
Through Collector Osmanabad

.. Appellant
(Original Respondent)

Versus

Shri. Manohar s/o. Babu Limkar,
Age Major, Occu. Agril, R/o. Andrud,
Taluka Bhoom, District Osmanabad.

.. Respondents
(Original claimant)

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Mr. S. S. Dande, AGP for Appellant in all the matters

Mr. S. A. Dhengale, Advocate for Respondents-claimants in FA/1713/2004

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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 06-01-2003 passed in Land Acquisition Reference No. 312,

321, 317, 343 and 344 of 1994 by the learned Reference Court, enhancing the amount of compensation for the acquired lands.

2. The lands-in-question are acquired for the purpose of Dokewadi Medium Project of Lanjeshwar, Taluka Bhoom, District Osmanabad. The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 25-01-1990. Thereafter, the Award was passed on 03-08-1993. Feeling dis-satisfied with the amount of compensation granted by the Special Land Acquisition Officer, the References were preferred under Section 18 of the Land Acquisition Act, 1894, in which, the amount has been enhanced to the tune of Rs.1000/- per R from Rs.375/- per R. The said Judgment and Award is under challenge in these Appeals.

3. I have heard the learned AGP appearing for the appellant and learned counsel appearing for the respondent-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.

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

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 while determining the amount of compensation considered the sale instance and oral evidence of vendor Shri. Ambadas Deshmukh and arrived at the market price of the land-in-question as Rs.40,000/- per Acre, which according to me, is just and proper.

8. Nothing has been brought on record by the appellant in these matters 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 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 land' needs to be granted 'from the date of Award'.

11. Accordingly, the Appeals are partly allowed as under :

ORDER

- (I) The First Appeals are 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.
- (IV) Pending Civil Applications are disposed of.

(ANIL S. KILOR)
JUDGE