

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 574 OF 2004

The State of Maharashtra
Through Collector, Osmanabad

.. Appellant
(Original Respondent)

Versus

1. Narsu Gunda Mane, Age 30 years,
2. Bhima Hariba Kaldade, Age 23 years,
Both Occu. Agri., R/o. Bhiganwadi,
Taluka Tuljapur, District Osmanabad.

.. Respondents
(Original Claimants)

...

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

Mr. K. J. Ghute Patil, Advocate for Respondents-claimants

...

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

ORAL ORDER :-

The present Appeal is arising out of the Judgment and Award dated 03-03-2003 passed in Land Acquisition Reference No. 382 of 1991 by the learned Reference Court, enhancing the amount of compensation for the acquired lands.

2. The land, two wells and four tals in-question are acquired for construction of Irrigation Tank at Tirth, Taluka Tuljapur, District Osmnabad. The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 16-07-1987. Thereafter, the Award was passed on 02-10-1989. 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 total amount has been enhanced to the tune of Rs.2,51,000/- from Rs.1,83,492/- (Rs.1,35,000/- + Rs.48,492/-) towards acquired land, two wells and four Tals. 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 Mr. Ghute-Patil, 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 in paragraph No. 9 of the impugned Judgment has considered the sale deed (Exhibit-63) dated 15-04-1986, which is executed prior to one year of notification under Section 4 of the L.A. Act dated 16-07-1987. The said land was sold for Rs.5,000/- and located at a distance of 1 km. from acquired land. The learned Reference Court has observed that said sale instance can be relied upon for determining the market price of the acquired land of the claimants, and accordingly, the land-in-question must receive Rs.12,500/- per Acre, which according to me is just and proper.

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 land' 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