

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1386 OF 2003

The State of Maharashtra
Through the Collector, Osmanabad

.. Appellant
(Original Respondent)

Versus

Gokul s/o. Tatyaba Khose,
Age 44 years, Occu. Service and Agriculture,
R/o. Lanjeshwar, Taluka Bhoom
District Osmanabad.

.. Respondent
(Original claimant)

...

Mr. B. V. Virdhe, AGP for Appellant

...

AND

FIRST APPEAL NO. 1390 OF 2003

The State of Maharashtra
Through the Collector, Osmanabad

.. Appellant
(Original Respondent)

Versus

Sahaji s/o. Dhondaba Khose,
Age 30 years, Occu. Service and Agriculture,
R/o. Lanjeshwar, Taluka Bhoom
District Osmanabad.

.. Respondent
(Original claimant)

...

Mr. B. V. Virdhe, AGP for Appellant

...

AND

FIRST APPEAL NO. 1392 OF 2003

The State of Maharashtra
Through the Collector, Osmanabad

.. Appellant
(Original Respondent)

Versus

Dagdu s/o. Tatyaba Khose,
Age 54 years, Occu. Service and Agriculture,
R/o. Lanjeshwar, Taluka Bhoom
District Osmanabad.

.. Respondent
(Original claimant)

...

Mr. B. V. Virdhe, AGP for Appellant

...

CORAM : ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL JUDGMENT :-

The present appeals are arising out of the Judgment and Award, dated 09-08-2002 passed in Land Acquisition References No. 343, 344 and 346 of 1997, passed by the learned Joint Civil Judge, Senior Division, Osmanabad, enhancing the amount of compensation from Rs.400/- per R to Rs.1000/- per R and also granting enhanced compensation towards trees from Rs.500/- per tree to Rs.700/- per tree.

2. The lands-in-question are situated within the vicinity of village Lanjeshwar, Taluka Bhoom, District Osmanabad, which are acquired for the purpose of Dokewadi Medium Project. The award was passed on 28-02-1996 and feeling dis-satisfied with the amount of compensation granted by Special Land Acquisition Officer, the References were made under Section 18 of the Land Acquisition Act, 1894 (L.A.Act), in which, the amount has been enhanced and the said Judgment and Award is under challenge in these appeals.

3. I have heard the learned AGP for the appellant-State of Maharashtra. None present for the respondent-claimants.

4. The only ground challenging the impugned Judgment and Award is that, according to learned AGP, the amount granted by the learned Reference Court is exorbitant. He, further, points out that the interest

under Section 28 of the L.A. Act ought to have been granted from the date of Award and not from the date of notification under Section 4 of the L. A. Act, as per well settled principle of law laid down in the Judgment of the Full Bench of this Court in a case of ***State of Maharashtra Versus Kailash Shiva Rangar***¹. He, therefore, submits that the impugned Judgment and Award needs modification to that extent.

5. To consider the contentions of 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 reveled that the learned Reference Court has scrutinized the oral as well as documentary evidence available on record in detail, while determining the market value and also considered the relevant factors to be taken into consideration as per the well settled principles of law, while arriving at a just and fair compensation.

7. Learned Reference Court more particularly in paragraph No. 18 and 19 considered the evidence as regards the market value of the land and trees, nothing has been brought on record by the appellant in this matter to show contrary to the same 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.

1 2016(4) ALL MR 513 (F.B.)

8. In view of the Judgment of Full Bench in the *State of Maharashtra Versus Kailash Shiva Rangari (supra)*, clause No. 5 of operative part of the impugned Judgment 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'. Accordingly, the present appeals need to be partly allowed as under :

ORDER

- (I) The appeals are partly allowed.
- (II) The clause (5) of the operative part of the Judgment and Award dated 09-08-2002 passed by the learned Joint Civil Judge, Senior Division, Osmananbad, in Land Acquisition References No. 343, 344 and 346 of 1997, 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