

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1583 OF 2004

The State of Maharashtra
Through The Collector, Osmanabad.

.. Appellant
(Original Respondent)

Versus

1. Gyandeo s/o. Nana Khartude, Age 65 years,
2. Waman s/o. Dnyanoba Khartude, Age 37 years,
Both Occu. Agri. and R/o. Lanjeshwar,
Taluka Bhoom, District Osmanabad.

.. Respondents
(Original Claimants)

...

Mr. B. V. Virdhe, AGP for Appellant
Mr. V. S. Bedre, Advocate for Respondents-claimants

...

CORAM : ANIL S. KILOR, J.

DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeal is arising out of the Judgments and Awards dated 09-09-2002 passed in Land Acquisition Reference No. 327 of 1997 by the learned Reference Court, enhancing the amount of compensation for the acquired land, fruit bearing trees and a well .

2. The land, fruit bearing trees and a well in-question are acquired for Dokewadi Medium Project of Lanjeshwar, Taluka Bhoom, District Osmanabad. The notification under Section 4 of the Land Acquisition Act, 1894, was issued on 11-04-1991. Thereafter, the Award was passed on 28-02-1996. 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.1000/- per R from Rs.400/- per R towards acquired land and also awarded Rs.400/- per R. per tree towards Pomegranate trees. 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. V. S. Bedre, 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 has considered 'E' Statement of the Award at Exhibit-19 for determining the value of Pomegranate fruit bearing trees and found that amount awarded by Land Acquisition Officer was inadequate and fixed the market value @ Rs.400/- per tree.

8. For the purpose of determining the market value of the land, the land sold by one vendor Ambadas Deshmukh was considered and further after considering the fertility of the land of the claimants, the rate under said sale instance at Exhibit-21 and value of the well of said Ambadas Deshmukh, the Reference Court has arrived at a conclusion as

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market value of acquired land at Rs.40,000/- per Acre, which is just and fair according to me.

9. 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.

10. 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.

11. 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'.

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

ORDER

- (I) The first 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