

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1224 OF 2003

The State of Maharashtra

...Appellant
(Original Respondent)

V/s.

Babu s/o Deula Mete,
dead L.Rs.

1. Bhanudas s/o Babu Mete,
Age Major,
2. Nanasaheb s/o Babu Mete,
Age Major,

Both occu. Agriculture,
r/o Nimgaon Bodkha,
Tq. Ashti, Dist. Beed.

... Respondents
(Original Claimants)

...
Advocate for Appellant : Mr. S. S. Dande
...

CORAM : ANIL S. KILOR, J.

DATE : 30th APRIL, 2021

...

ORAL JUDGMENT :

1. This is an appeal preferred by the appellant- State of Maharashtra, challenging the Judgment and Award, dated 03-01-2000 passed by the learned 5th Additional District Judge, Beed in L.A.R. No. 573 of 1986, enhancing the amount of compensation from Rs.11,487/- to Rs.24,421/- towards land acquired.

2. The land-in-question was acquired for Sina Project at village Nimgaon (Bodkha), Taluka Ashti, District Beed. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was issued on 19-02-1981 and Award was passed on 20-07-1984. The Special Land Acquisition Officer awarded compensation to the tune of Rs.11,487/-, which was found to be inadequate, and therefore, a Reference was made by the claimants, in which, additional compensation to the tune of Rs.12,934/- for acquired land, was awarded.

3. I have heard learned AGP appearing for the appellant. Despite service of notice, no appearance is caused on behalf of respondents-claimants.

4. The learned AGP urges that the grant of enhancement is erroneous. He further points out that as per the Judgment of Full Bench of this Court in the case of ***State of Maharashtra Versus Kailash Shiva Rangari***¹, the operative part of the order needs to be modified as regards the grant of interest. It is submitted that the interest ought to have granted from the date of award, however, it has been granted from the date of notification under Section 4 of LA Act.

¹ 2016 (4) All MR 513 (F.B.)

5. To consider the contentions raised by the learned AGP, I have gone through the record and proceedings and also perused the impugned Judgment and Award. From the impugned Judgment and Award, it is revealed that, the learned Reference Court, after scrutinizing the oral as well as documentary evidence, has recorded the reasons for enhancement.

6. It is clear that the enhancement has been granted after considering the valuer's report. Nothing contrary to the same has been pointed out by the learned AGP. Even no perversity is pointed out and accordingly I do not find any merit in the present appeal.

7. There is one more reason for dismissing the Appeal and that is, during the pendency of present appeal, the State Government has come up with a policy decision vide Government Resolution dated 03-11-2016 and subsequent a corrigendum dated 23-02-2017 issued in that regard, wherein it has been resolved that where the amount enhanced by the learned Reference Court is not more than four times than the amount granted by the Special Land Acquisition Officer, in such matters, no appeal shall be filed or contested. In the present matter, admittedly the total amount granted by Land Acquisition Officer was Rs.11,487/-, whereas, it has been enhanced to Rs.24,421/- i.e. not more than four times.

8. However, the interest granted by the learned Reference Court, from the date of notification is contrary to the law laid down in the Judgment of Full Bench of this Court in the case of ***Kailas Shiva Rangari (supra)***. The interest should have been awarded from the date of Award. Therefore, the impugned judgment and Award is modified. Accordingly, I pass the following order :-

ORDER

1. The Appeal is partly allowed.
2. The clause No. 3 of operative part of the Judgment and Award dated 03/01/2000 passed by the learned 5th Additional District Judge, Beed in L.A.R. No. 573 of 1986, is modified, and, it is held that the claimant is 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 at the rate of 9 % per annum and for the subsequent period it would be at the rate of 15 % per annum till realization of the entire amount of the Award.
3. The Appeal is disposed of.
4. No order as to costs.

(ANIL S. KILOR, J.)

shp/-