

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

6 FIRST APPEAL NO.1409 OF 2003

The Special Land Acquisition Officer,
M.I.W. Jalgaon

APPELLANT

V E R S U S

Rajaram Ganpat Banbkar, Age 40 years,
Occupation Farmer, Resident of Pahur,
Taluka Jamner, District Jalgaon

RESPONDENT

...
Mr. S.S. Dande, A.G.P. for the appellant-State
Mr. A.B. Kale, Advocate for the respondent
...

**CORAM : ANIL S. KILOR, J.
DATE : 30th APRIL, 2021**

ORAL JUDGMENT :

The appellant has filed this Appeal challenging the Judgment and Award passed by the II Jt. Civil Judge, Senior Division, Jalgaon, dated 26th April, 2000 in Land Acquisition Reference No.223 of 1998 granting enhancement of compensation to the respondent.

2. The land in question was acquired for the purpose of M.I. tank, Gogadi-Nala, Taluka Jamner, District Jalgaon. The Award was passed on 30th June, 1992 and respondent had been granted amount of compensation by the Land Acquisition Officer. The

respondent-applicant filed on record Land Acquisition Reference under Section 18 of the Land Acquisition Act, 1894 and thereby prayed for enhancement of amount of compensation.

3. After going through the Judgment and Award, it is revealed that the learned reference Court after scrutinizing the oral and documentary evidence available on record in detail, enhanced the amount of compensation @ Rs.1,25,000/- per H and the same is challenged in the present appeal.

4. Heard the learned A.G.P. for the appellant/State and learned counsel Mr. A.B. Kale for the respondent/sole-claimant.

5. Learned A.G.P. for the appellant/State states that the impugned Judgment and order is erroneous as the compensation granted by the Special Land Acquisition Officer was just and fair and, therefore, no interference ought to have made by the reference Court.

5.1 Learned A.G.P. further submits that as per the judgment of Full Bench of this Court in the case of ***State of Maharashtra versus Kailash Shiva Rangari*** reported in 2016 (4) All MR 513 and now it is well settled that the interest under Section 28 of the Land

Acquisition Act shall be granted from the date of award. It is submitted that, in this matter, the interest has been granted from the date of possession, which is contrary to the above referred judgment of the Full Bench of this Court.

6. Learned counsel for the respondent supports the impugned Judgment and Award and, states that, there is no merit in the present appeal and, therefore, same is liable to be dismissed.

7. To consider the rival contentions of the rival parties, I have gone through the record and proceedings and also perused the impugned Judgment and Award.

8. The record shows that the learned Reference Court while granting enhancement of compensation has scrutinized the oral as well as documentary evidence. It is pertinent to state that the learned reference Court has considered the sale instances, more particularly, sale instance dated 24th June, 1991 in which the land was sold @ Rs.1,45,161/- per hectare, however, considering the distance between the land acquired in this matter, the reference Court came to the conclusion that the payment of compensation would be @ Rs.1,25,000/- per H for jirayat land and Rs.2,50,000/- per H for bagayat land.

9. Learned A.G.P. for the appellant-State is unable to point out any perversity in the findings recorded by the learned Reference Court and also failed to point out the counter evidence to say that the learned Reference Court has committed error in granting enhancement of compensation.

10. In view of the matter, I do not find any merit in the present Appeal. However, the operative part of the impugned judgment and order needs to be modified in view of the judgment of Full Bench in the case of ***State of Maharashtra versus Kailash Shiva Rangari*** (*supra*), and accordingly, I proceed to pass the following order :-

O R D E R

- [1] Appeal is partly allowed.
- [2] The clause (6) of the operative part of the impugned judgment and Award dated 26th April, 2000 is modified to the extent "**from the date of Award**" in place of "**from the date of possession**", as has been granted by the learned Reference Court.
- [3] Appeal is disposed of. No order as to costs.

(ANIL S. KILOR, J.)