

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 118 OF 2003

The State of Maharashtra,
Through The Collector,
Jalgaon

.. Appellant

Versus

Supadu Mahadu Patil

.. Respondent

AND

FIRST APPEAL NO. 122 OF 2003

(The State of Maharashtra Vs. Smt. Narmadabai Vitthal Patil)

AND

FIRST APPEAL NO. 119 OF 2003

(The State of Maharashtra Vs. Vishwanath Baliram Patil)

AND

FIRST APPEAL NO. 121 OF 2003

(The State of Maharashtra Vs. Dnyaneshwar Vitthal Patil)

...

Mr. B. V. Virdhe, AGP for Appellant-State

Mr. A.V. Dixit, Advocate for the respondent

...

CORAM : ANIL S. KILOR, J.

DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeals are arising out of the Judgment and Award dated 09-09-1998 passed in Land Acquisition Reference No. 146 of 1998, 143 of 1998, 144 of 1998 and Judgment and Award dated 02-09-1998 in LAR no. 163 of 1998 and 167 of 1998 by the learned Reference Court, enhancing the amount of compensation for the acquired lands.

2. The lands-in-question are acquired for the purpose of M.I. Tank Wanegaon Project. The Section 4 Notification was issued on 06-07-1989. Thereafter, Award was passed on 18-09-1992. Feeling dis-satisfied with the amount of compensation granted by the Special Land Acquisition Officer, Reference were preferred under Section 18 of the Land Acquisition Act, 1894 in which the amount has been enhanced to the tune of Rs.30,000/- per Hectare from Rs.12,000/- per Hectare. The said Judgments and Awards are under challenge in these Appeals.

3. I have heard the learned AGP for the appellant-State of Maharashtra and 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 Judgments and Awards.

6. After going through the Judgments and Awards, 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.

1 2016(4) ALL MR 513 (FB.)

7. The Reference Court while determining the amount of compensation, has considered the oral evidence of the Expert valuer as regards the trees and also considered the oral evidence of the witness of the SLAO and after considering the same, observed that the Government witness had visited the land after one year of Section 4 notification and found dry trees. The Reference Court has further observed that it is obvious because after section 4 notification, the claimants did not take care of the trees and the result was the trees became dry. However, in the evidence of the Expert Valuer, the valuation worked out by him was Rs. 1,79,737/-.

7.1. The Court has considered the relevant evidence available on record oral as well as documentary. Similarly, as regards the land, the Court has considered the sale instances and found the said sale instances as genuine one and bonafide transaction and arrived at a conclusion that the just and fair compensation would be Rs.80,000/- per Hectare for jirayat land and Rs.1,60,000/- per Hectare for bagayat land, which is just and proper.

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 matters.

9. Moreover, in view of the Government policy not to file or 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 Appeals need 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 Appeals are partly allowed as under :

ORDER

- (I) The Appeals are partly allowed.
- (II) The operative part of the impugned Judgments and Awards 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

arp/-