

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

**1 FIRST APPEAL NO.467 OF 2003
WITH CIVIL APPLICATION NO. 3968 OF 2000**

The State of Maharashtra,
through the Collector, Latur.

.. Appellant,
(Ori. Respondent)

Versus

Madhav s/o Narayan Pawar,
age 40 yrs., Occu. Agriculture,
R/o Village Andora, Tq. Ausa,
Dist. Latur

... Respondent
(Ori. Claimant)

**AND
FIRST APPEAL NO.476 OF 2003
WITH CIVIL APPLICATION NO. 3964 OF 2000**

The State of Maharashtra,
through the Collector, Latur.

.. Appellant,
(Ori. Respondent)

Versus

Sahadeo s/o Narayan Pawar,
age 25 yrs., Occu. Agriculture,
R/o Village Andora, Tq. Ausa,
Dist. Latur

... Respondent
(Ori. Claimant)

**AND
FIRST APPEAL NO.480 OF 2003
WITH CIVIL APPLICATION NO. 3970 OF 2000**

The State of Maharashtra,
through the Collector, Latur.

.. Appellant,
(Ori. Respondent)

Versus

Govind s/o Narayan Pawar,
age 50 yrs., Occu. Agriculture,
R/o Village Andora, Tq. Ausa,
Dist. Latur.

... Respondent
(Ori. Claimant)

AND

**FIRST APPEAL NO.485 OF 2003
WITH CIVIL APPLICATION NO. 3966 OF 2000**

The State of Maharashtra,
through the Collector, Latur.

.. Appellant,
(Ori. Respondent)

Versus

Tanaji s/o Narayan Pawar,
age 20 yrs., Occu. Agriculture
and student, R/o Village Andora,
Tq. Ausa, Dist. Latur

.. Respondent
(Ori. Claimant)

...
Shri. S. S. Dande, AGP for Appellant

...

CORAM : ANIL S. KILOR, J.

DATE : 30th APRIL, 2021

ORAL JUDGMENT :

1. In all these matters, the appellant- State of Maharashtra is challenging the Judgment and Award, dated 15-09-1998 passed by the learned Civil Judge, Senior Division, Latur in Land Acquisition References No. 1273, 1274, 1275 and 1276 of 1992.

2. There are two surveys bearing No. 76 and 75, which are involved in the present Appeals. The above referred lands were acquired for the purpose of construction of percolation tank No.5 at village Andora, Taluka Ausa, District Latur.

3. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was issued on 25-02-1989 and the Award was passed on 12/11/1991. The Land Acquisition Officer considered both the survey numbers as dry land and granted Rs.160/- per R towards land value.

4. Being dissatisfied with the Award passed by SLAO, References was filed by the claimants. The learned Reference Court thereupon considered the Survey No. 75 as irrigated land and granted compensation at Rs.750/- per R whereas Survey No. 76 as dry land and granted compensation at Rs.600/- per R. The said enhancement vide Judgment and Award dated 15-09-1998 is impugned in the present Appeals.

5. I have heard the learned AGP. Though, the appearance was caused on behalf of respondents-claimants, however, no one present when the matters are called out.

6. The only ground urged before this Court is that the enhancement of amount of compensation by the learned Reference Court is erroneous.

7 It is further pointed out that the interest granted under Section 28 ought to have been granted from the date of award and not from the date of possession, as per the Judgment of the Full Bench of this Court in the case of *State of Maharashtra Versus Kailash Shiva Rangari*¹.

8. 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.

9. The learned Reference Court while arriving at a conclusion that the compensation granted by the Land Acquisition Officer needs to be enhanced, has considered the sale instances and also considered the relevant factors, which are to be considered as per the well settled principles of law while determining the market value of the lands.

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

10. The learned Reference Court has also considered the Judgments of the Delhi High Court and this Court and after scrutinizing the oral as well as documentary evidence, has granted enhancement at the rate of Rs.600/- per R for dry land and Rs.750/- per R. for irrigated land.

11. The reasons stated in paragraphs No. 10, 11 and 12 of the Judgment are based on the evidence and no perversity has been pointed out by the learned AGP in these matters. Moreover, nothing contrary is shown, and therefore, I am of the considered view, that the present Appeals are meritless and no illegality has been committed by the learned Reference Court while granting enhancement in these Appeals.

12. However, on the point of grant of interest from the date of Award and not from the date of taking possession as has been granted by the reference Court the Judgment and Award needs to be modified in view of Judgment in Kailas Rangari (*Supra*). Accordingly, I pass the following order :

ORDER

1. The First Appeals are partly allowed.
2. The clause No. 2 of operative part of the Judgment and Award, dated 15-09-1998 passed by the learned Civil Judge, Senior Division, Latur in Land Acquisition References No. 1273, 1274, 1275 and 1276 of 1992, 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

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. First Appeals are accordingly disposed of.
4. No order as to costs.
5. In view of disposal of first appeals, nothing further survives for consideration in pending Civil Applications, the same stand disposed of accordingly.

(ANIL S. KILOR, J.)

shp/-