

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

FIRST APPEAL NO.443 OF 2003

The State of Maharashtra,
Through the Collector, Osmanabad.

**...APPELLANT
(Orig. Respondent)**

VERSUS

Madhav S/o Raghunath Mule,
Age-32 years, Occu:Agril.,
R/o-Karajgaon, Taluka-Omerga,
District-Osmanabad.

**...RESPONDENT
(Orig. claimant)**

...
Mr.B.V. Virdhe Advocate for Appellant.
Mr.A.S. Bayas Advocate for Respondent.
...

CORAM: ANIL S. KILOR, J.

DATE : 28th APRIL, 2021

ORAL ORDER :

1. The present appeal is arising out of the Judgment and award dated 24th February 1998 passed in Land Acquisition Reference No. 196 of 1990 by the Civil Judge, Senior Division,

Osmanabad, granting enhanced compensation to the tune of Rs.30,000/- along with statutory interest.

2. The house bearing No. 112 admeasuring 174.50 square meter situated at Karajgaon, Taluka-Omerga was acquired by the State for construction of Lower Terna Project, Makani. The Special Land Acquisition Officer granted Rs.30,331/- towards total compensation, whereas it has been enhanced by Rs.30,000/- by the Reference Court and the same is under challenge.

3. I have heard the learned AGP appearing for the State and learned counsel appearing for the claimant. The learned AGP opposed the grant of Rs.30,000/- towards enhanced compensation on the ground that the amount is exorbitant.

4. To consider the contentions raised by the learned AGP, I have gone through the record and proceedings and also the impugned Judgment and award. The reasoning recorded by the learned Reference Court in Paragraph No. 6 of the Judgment justifies grant of enhancement. In that view of the matter, I do

not find any error committed by the learned Reference Court in granting Rs.30,000/- towards enhanced compensation.

5. Moreover, there is one additional reason for dismissal of the appeal and the same is that, now it is a Government policy, as per the Government Resolution dated 3rd November 2016 and corrigendum issued to the same, not to file or contest appeals wherein the compensation awarded by the Reference Court is not more than four times than the compensation granted by the Special Land Acquisition Officer. In the present matter admittedly, the amount of compensation awarded by the learned Reference Court is below four times of the compensation granted by the Special Land Acquisition Officer.

6. Thus, for the reasons recorded herein above, I do not find any merit in the present appeal.

7. However, the Judgment and award requires to be modified to the extent of the amount of interest under Section 28 of the Land Acquisition Act which is granted from the date of possession, whereas it should have been from the date of award

as per the Judgment of the Full Bench of this Court in a case of ***State of Maharashtra vs. Kailash Shiva Rangari***¹.

8. Accordingly, the present appeal needs to be partly allowed, as under:-

ORDER

(I) The appeal is partly allowed.

(II) The clause (iv) of the operative part of the Judgment and award dated 24th February 1998 passed in Land Acquisition Reference No. 196 of 1990 by the Civil Judge, Senior Division, Osmanabad 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.

(III) No order as to costs.

[ANIL S. KILOR, J.]

asb/APR21

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