

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 793 OF 2004

- 1] The State of Maharashtra
Through Collector,
Parbhani
- 2] The Special Land Acquisition Officer,
Maharashtra, Marathwada Krushi
Vidyapith, Parbhani .. Appellant

Versus

Nagorao S/o Shahaji Shinde,
Age : 60 years, Occu : Agri.,
R/o Dhasadi, Tq. And Dist. Parbhani .. Respondent

AND

FIRST APPEAL NO. 794 OF 2004
(The State of Maharashtra Vs. Gangadhar Babu Shinde)

AND

FIRST APPEAL NO. 795 OF 2004
(The State of Maharashtra Vs. Daulatrao Narayanrao Shinde)

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Mr. S.S. Dande, AGP for Appellant-State
Mr. S.J. Salunke, Advocate for the respondent

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CORAM : ANIL S. KILOR, J.
DATE : 5th MAY, 2021

ORAL ORDER :-

The present Appeals are arising out of the Judgment and Award dated 26-09-1996 passed in Land Acquisition References No. 378, 382 and 385 all of 1993, 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 Jaikwadi Canal Project. The Section 4 Notification was issued on 02-09-1982. Thereafter, Award was passed on 07-03-1994. Feeling dis-satisfied with the amount of compensation granted by the Special Land

Acquisition Officer, References were preferred under Section 18 of the Land Acquisition Act, 1894 in which the amount has been enhanced to the tune of Rs.250/- per R from Rs.60/- per R. The said Judgment and Award is 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 Judgment and Award.

6. After going through the Judgment and Award, 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.

7. The learned Reference Court while determining the land value has considered the sale instances as observed above and recorded its finding in paragraph no. 12 of the Judgment as regards the sale instance Exhibit – 19. Moreover, the Reference Court has also observed that it cannot be accepted that the vendor of the said land would execute a sale deed of his land at higher rate only to help villagers for claiming

¹ 2016(4) ALL MR 513 (FB.)

compensation of their lands at higher rate. Thus, the Reference Court has rightly arrived at the compensation of Rs.250/- per R by enhancing it from Rs.60/- per R.

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 matter.

9. 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'.

10. Accordingly, the present Appeals are partly allowed as under :

ORDER

(I) The appeals are partly allowed.

(II) The operative part of the impugned Judgment and Award 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/-