

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 695 OF 2020

The Godavari Marathwada Irrigation
Development Corporation,
Through the Executive Engineer,
M.I. Division, Osmanabad,
Tq. & Dist. Osmanabad

.. Appellant
(Orig. Respondent no.2)

The State of Maharashtra,
Through Collector, Osmanabad

.. Co-Appellant
(Orig. Respondent no.1)

VERSUS

Nagnath S/o Tulsiram Rajguru,
Age : 64 years, Occu. : Agri.,
R/o Patoda,
Tq. & Dist. Osmanabad

.. Respondent
(Orig. Claimant)

...
Mr. Ranjit B. Gaikwad, Advocate for the appellant
Mr. V.V. Ingale, Advocate for the respondent
...

CORAM : ANIL S. KILOR, J.

DATE : 06-04-2021

ORDER :

1. The challenge raised in the present Appeal is to the common Judgment and Award dated 27-08-2012 passed by the 3rd Joint Civil Judge Senior Division, Osmanabad in LAR no. 300 of 2002 and LAR no. 246 of 2002, granting enhanced compensation @ Rs.1000/- per R for the acquired land.

2. The land in question was acquired by the appellant - Acquiring Body for the purpose for Wadala tank. In the Award declared by the SLAO, Rs.210/- per R was granted whereas the same has been enhanced to

Rs.1000/- per R vide impugned Judgment and Award dated 27-08-2012. The correctness of the same is questioned in the present Appeal.

3. I have heard learned Counsels for the respective parties.

4. The learned Counsel appearing for the appellant points out that the learned reference Court has wrongly granted interest under section 28 of the Land Acquisition Act from the date of notification i.e. 25-03-1993 instead of from the date of Award as per the Full Bench Judgment of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari***¹.

5. It is submitted that the amount granted towards enhancement was erroneously granted without considering the case of the Acquiring Body.

6. Per contra, the learned counsel appearing on behalf of the claimant concede to the extent of grant of interest under section 28, from the date of Award and not from the date of notification.

7. It is further pointed out by learned counsel for the claimant that the amount granted by the learned Reference Court i.e. Rs.1000/- per R is almost 4 times of the amount granted by the SLAO and, therefore, as per the Government Resolution dated 03-11-2016, it has been decided by the Government that if the enhancement is within four times of the amount granted by the Land Acquisition Officer, the Appeal needs to be withdrawn by the Acquiring Body.

1 2016(4) All.M.R. 513

8. To consider the contentions of the parties, I have perused the record. It is revealed from the record that the learned Reference Court after scrutinizing the oral as well as documentary evidence available on record, has rightly arrived at the conclusion that the compensation needs to be enhanced at the rate of Rs.40,000/- per Acre i.e. Rs.1000/- per R. Nothing has been shown by the learned counsel for the appellant - Acquiring Body as regards perversity in arriving at the said conclusion and determining the enhanced compensation by the Reference Court. Thus, I do not find any error committed by the learned Reference Court in granting Rs.1000/- per Are towards enhanced compensation.

9. As regards, the interest granted by the Reference Court under section 28, it is settled position of law that interest under section 28 shall be granted from the date of Award. Admittedly, in the present matter, the interest is granted from the date of notification i.e. 25-03-1993. In that view of the matter, the Judgment and Award is modified to the effect that the interest under section 28 of the Act of 1894, shall be granted from the date of Award and it shall be @ 9% per annum for first year and, thereafter, it shall be @ 15% per annum for subsequent years till realization of the amount.

10. Appeal is accordingly disposed of. No order as to costs.

[ANIL S. KILOR]
JUDGE

arp/