

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

FIRST APPEAL NO.113 OF 2020

1) Syed Abdul Aziz S/o Syed Abdul Rashid.
DIED PER LEGAL HEIR.

1-A) Syed Abu Sayeed S/o Syed Abdul Rashid,
Mashayak. Age-Major,
Occupation-Agriculture,
Resident of – Raees Galli, Osmanabad.

...APPELLANT

VERSUS

1) The State of Maharashtra,
Through the Collector,
Osmanabad,

2) The Executive Engineer,
Lift Irrigation Department,
Osmanabad,

3) The Special Land Acquisition Officer,
Lift Irrigation Department,
Osmanabad No.1.

...RESPONDENTS

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Ms. A.N. Ansari Advocate for Appellant.
Ms.D.S. Jape, A.G.P. for Respondents No. 1 and 3.
None present for Respondent No. 2.

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CORAM: ANIL S. KILOR, J.

DATE : 15th MARCH, 2021

ORAL ORDER :

1. The appellant is original claimant in Land Acquisition Reference No.242 of 2010, which was filed under Section 18 of the Land Acquisition Act. The reference Court partly allowed the said reference. The only grievance raised by the appellant in the present appeal is in respect of failure of the reference Court to extend the benefit of interest under Section 28 of the Land Acquisition Act on the enhanced amount of compensation.

2. Heard learned counsel for the appellant and learned AGP for respondents No. 1 and 3. None for respondent No. 2 – acquiring body.

3. Learned counsel for the appellant has pointed out that by common award about 13 references were decided by the learned Reference Court vide common Judgment delivered on 17th October 2013.

4. The attention of this Court has been drawn to the said Judgment, wherein there is a mention of Land Acquisition Reference No. 242 of 2010 which was a part of the said common Judgment.

5. It is pointed out that except the claimants in Land Acquisition Reference Nos. 241 of 2010 and 242 of 2010, other claimants had preferred the First Appeal before this Court, challenging non grant of interest under Section 28 of the Land Acquisition Act by the Reference Court on the enhanced amount of compensation and this Court, partly allowed those Appeals and thereby directed the respondents that in addition to the amount of compensation awarded by the Reference Court, to pay to the claimants benefits under Section 28 of the Land Acquisition Act on the enhanced amount of compensation awarded by the Reference Court. The amount of interest on enhanced compensation awarded by the Reference Court for the initial period of one year from the date of possession shall be paid at the rate of 9% p.a. and after completion of said period of one year as aforesaid, at the rate of 15% p.a. till the date of payment of amount.

6. Learned counsel for the appellant draws an attention of this Court to the said orders passed by this Court in First Appeal No. 831 of 2004 and other connected Appeals on 2nd September

2015, and thereafter on 6th October 2015 in First Appeal No. 2237 of 2014.

7. It is, thus, prayed that since the other claimants, who were covered by the common Judgment of the Reference Court dated 17th October 2013, have already been received all the benefits including interest under Section 28 of the Land Acquisition Act, the appellant should also be granted the same benefits.

8. The learned AGP is not disputing above referred position and the Judgments passed by this Court in connected Appeals, referred to above.

9. In view of that, the present appeal is partly allowed. The respondents are directed, in addition to the amount of compensation awarded by the Reference Court, to pay the claimant - appellant benefits under Section 28 of the Land Acquisition Act on the enhanced amount of compensation awarded by the Reference Court. The amount of interest on enhanced compensation awarded by Reference Court for the initial period of one year from the date of possession shall be paid at the rate of 9% p.a. and after completion of said period of

one year as aforesaid, at the rate of 15% p.a. till the date of payment of amount.

10. The appeal is thus, allowed partly. There shall be no order as to costs.

[ANIL S. KILOR, J.]

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