

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1506 OF 2004

The State of Maharashtra
 Through The Special Land Acquisition Officer,
 M.I.W., Jalgaon at Jalgaon, District Jalgaon. .. Appellant
 (Original Respondent)

Versus

1. Ashok Raghunath Patil,
 Age 30 years, Occu. Agri.,
2. Shrikrushna Raghunath Patel,
 Age 28 years, Occu. Agriculture,
 R/o. Khadgaon, Taluka Chopda,
 District Jalgaon. .. Respondents
 (Original Claimants)

Mr. S. S. Dande, AGP for Appellant. ...

CORAM : ANIL S. KILOR, J.
DATE : 30th APRIL, 2021

ORAL JUDGMENT :-

The appellant- State of Maharashtra has approached to this Court by way of present appeal, challenging the Judgment and Award, dated 26-04-2004 passed by the learned Civil Judge, Senior Division, Amalner, District Jalgaon, in Land Acquisition Reference No. 132 of 1992, enhancing the amount of compensation from Rs.220/- per R. to Rs.600/- per R for the land acquired.

2. The land and trees in-question in this appeal were acquired for Kurwel Distributories Hatnur Canal project. Notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was published in the Government Gazette on 03-12-1987 and the Award was declared on 28-03-1990. The Special Land Acquisition Officer awarded compensation to the tune of Rs.9,680/- for land, which was found to be inadequate, and therefore, Reference was filed by the claimants, in which, the Reference Court awarded additional compensation to the tune of Rs.16,720/- for

acquired land and amount of Rs.9000/- towards 9 lemon trees.

3. I have heard learned AGP appearing for the appellant. Despite service of notice, no appearance is caused on behalf of the respondents-claimants.

4. The learned AGP submits that the learned Reference Court has committed error in not considering the case of Land Acquisition Officer in right perspective.

5. Learned AGP has pointed out that the amount of interest under Section 28 of the L.A.Act has been granted from the date of notification under Section 4 of the L.A.Act, whereas, it should have been from the date of Award as per well settled principle of law laid down in a Judgment of the Full Bench of this Court in the case of ***State of Maharashtra Versus Kailash Shiva Rangar***¹.

6. I have gone through the record and proceedings and also perused the impugned Judgment and Award. From the Judgment and Award, it is revealed that the learned Reference Court after scrutinizing the oral as well as documentary evidence on record and also after considering the relevant factors as per the well settled principles of law has arrived at the amount of enhanced compensation.

7. The learned Reference Court has considered the location of the land as well as the other factors like fertility, potentiality, quality of land and sale instances. The learned AGP failed to point out any perversity in the findings recorded by the learned Reference Court and also failed to point out any contrary evidence.

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

8. Moreover, in view of the Government policy not to file appeal or to contest appeal in the matter wherein the amount awarded by the learned Reference Court is not more than four times than the amount awarded by SLAO as per Government Resolution dated 03-11-2016 and subsequent corrigendum dated 23-02-2017 issued in that regard, I am of the view that on this count also, the appeal needs to be dismissed.

9. However, to the extent of grant of interest from the date of Award in view of the Judgment of Full Bench of this Court in the case of *State of Maharashtra Versus Kailash Shiva Rangari (supra)*, I am of the opinion that the operative part of the impugned Judgment and award needs to be modified. Accordingly, I pass the following order :-

ORDER

- (I) The appeal is partly allowed.
- (II) The clause No. 4 in regard to awarding of interest in the operative part of the Judgment and Award, dated 26-04-2004 passed by the learned Civil Judge, Senior Division, Amalner, District Jalgaon, in Land Acquisition Reference No. 132 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 @ 9% per annum and for the subsequent period it would be @ 15% per annum till realization of the entire amount of the Award.
- (III) The appeal is disposed of.
- (IV) No order as to costs.

(ANIL S. KILOR)
JUDGE