

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1747 OF 2004

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| 1. The State of Maharashtra,
Through Collector, Collectorate,
Nanded. | |
| 2. The Special Land Acquisition Officer,
P.T. & M.I.W., II, Nanded. | |
| 3. The Executive Engineer,
Medium Project Talni, Office,
Nanded, District Nanded | .. Appellants
(Original Respondents) |

Versus

Vishvanath s/o. Dhondiba Medke, Age 45 years, Occu. Agriculture, R/o. Lohgaon, Taluka Biloli, District Nanded.	.. Respondent (Original Claimant)
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Mr. B. V. Virdhe, AGP for Appellants. ...

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

ORAL JUDGMENT :-

The appellants have approached to this Court by way of present appeal, challenging the Judgment and Award, dated 22-06-2004 passed by the learned Civil Judge, Senior Division, Biloli, District Nanded, in Land Acquisition Reference No. 63 of 2004, enhancing the amount of compensation from Rs.750/- per R. to Rs.900/- per R. towards acquired land.

2. The land-in-question in this appeal is situated at village Lohagaon, Taluka Biloli, District Nanded and owned by the respondent-claimant. The said land was acquired for the construction of Talni Medium Project at Lohagaon. The notification under Section 4 of the Land Acquisition Act, 1894 (L.A.Act) was published in Government Gazette on

30-09-1996 and Award was declared on 29-03-2000. The Special Land Acquisition Officer awarded compensation which was found to be inadequate, and therefore, a Reference was filed by the claimant, in which, the amount was enhanced from Rs.750/- per R. to Rs.900/- per R.

3. I have heard learned AGP appearing for the appellants. Despite service of notice, no appearance is caused on behalf of respondent-claimant.

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. The 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 possession, 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 Vs. Kailash Shiva Rangari***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 well as 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 factor namely sale instances produced by the claimant. The learned AGP failed to point out any perversity in the

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findings recorded by the learned Reference Court and also failed to point out any contrary evidence.

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 22-06-2004 passed by the learned Civil Judge, Senior Division, Biloli, District Nanded, in Land Acquisition Reference No. 63 of 2004, 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 @ 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