

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

FIRST APPEAL NO. 385 OF 2004

The State of Maharashtra
Through Collector, Beed.

.. APPELLANT
[Orig. Respondent]

VERSUS

Bhagwan s/o. Pralhad Gangane,
Age 40 years, Occupation Agriculture,
R/o. Redi, Tal. Ambajogai,
Dist. Beed.

.. RESPONDENT
[Orig. Claimant]

...

Mr.S.S.Dande, AGP for the appellant-State
Mr.N.B.Jadhav, Advocate for respondent.

...

CORAM : S.G.DIGE, J.

Reserved on : 18.08.2022

Pronounced on : 16.09.2022

JUDGMENT :

1] Being aggrieved and dissatisfied with the judgment and award passed by the 2nd Additional District Judge, Ambajogai, District Beed [for short ‘the Reference Court’] whereby enhancement of compensation is allowed. Against the said judgment and order, the appellant – original respondent preferred this appeal.

Brief facts of the case are as under:

2] The land of the claimant was situated at village Radi, it was acquired for the purpose of construction of percolation tank. The Special Land Acquisition Officer [for short 'the SLAO'] declared an award on 26th June, 1992. The possession of the land was taken on 18th May, 1987.

3] It is the contention of the learned AGP for the appellant-State that the learned Reference Court has not appreciated the evidence in its proper perspective and has granted excess compensation to the respondent. The learned Reference Court has erred in awarding Rs.450/- per Are for the acquired land, which is far more than the actual market value at the relevant time. The compensation is awarded Are-wise and ought to have awarded compensation Acre-wise. The compensation of Rs.450/- per Are is four times more than the amount granted by the SLAO, which is highly excessive and much more than the actual market value at the relevant time, hence, requested to allow the appeal.

4] It is the contention of the learned counsel for the respondent that the Reference Court has awarded the compensation on the basis of previous judgment of the land acquired for the same purpose in which market price has been determined at the rate of Rs.500/- per Are. Hence, the order passed by the Reference Court is legal and valid.

5] I have heard both learned counsel. Perused the judgment and order passed by the Reference Court.

6] The issue involved in this appeal is four times more rate given by the Reference Court than the rate given by the SLAO. The learned Reference Court has observed that the acquired land is situated near the village Radi. The Amba Sugar Factory is situated about 5-6 kilo meters from the village Radi, the tahsil Ambajogai is 13 kilo meters away from the said village. The village is developing one. The previous judgment in which the rate was given at Rs.500/- per Are, hence, he has given rate of Rs.450/- per Are. In my view, when it has come on record that the village Radi is near to Ambajogai city and near to Ambajogai sugar

factory. It shows that it is a developing village. The earlier lands from the same village were acquired for the graveyard vide notification dated 24.09.1992 in which Rs.500/- rate per Are was granted. The said order is not challenged. The lands of the appellant is from the same village so the rate of Rs.450/- per Are granted by the Reference Court is proper. Moreover, Government vide Circular dated 03.11.2016 and corrigendum dated 23.02.2017 has taken a decision that if the compensation is within four times, it shall not be challenged. The interest given by the Reference Court is from the date of possession. As per the view taken by the Full Bench of this Hon'ble Court in the case of **The State of Maharashtra Vs. Kailash Rangari** reported in 2016 [3] **Mh.L.J. 457**, it should be from the date of award, hence, I pass the following order :-

ORDER

- i] Appeal is partly allowed.
- ii] The respondent is entitled for the interest on the awarded compensation as per the view taken in the case of **The State of Maharashtra Vs. Kailash Rangari** [supra].

iii] The respondent is entitle to withdraw the amount, if not withdrawn.

iv] Respondent to refund interest amount.

v] Appeal is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC