

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

992 FIRST APPEAL NO.3544 OF 2016
WITH CA/3129/2020 IN FA/3544/2016 WITH CA/2498/2016 IN FA/
3544/2016

1. The State of Maharashtra
2. The Executive Engineer,
Irrigation Development Branch,
Dindori Road, Meri, Nashik. ..Appellants
(Ori. Respondents)

V E R S U S

Sou. Ushabai Kashinath Gagare,
Age : 55 Years, Occ. Agriculture,
R/o. Vaghacha Aakhada, Tq. Rahuri,
Dist. Ahmednagar Respondent
(Ori. Claimant)

...
Advocate for Appellants : Mrs. D. S. Jape
Advocate for respondent : Mr. R. R. Karpe
....

**CORAM : S. G. DIGE, J.
DATE : 30.09.2022**

JUDGMENT :-

The present First Appeal is arising out of the judgment and award dated 01.10.2014 passed by the learned 4th Joint Civil Judge, Senior Division, Ahmednagar in L. A.R. No. 4 of 2009.

2. In the present First Appeal the land is acquired by the appellants accordingly notification under Section 4 was published on 22.10.2011 and the land acquisition officer was

pleased to award compensation at the rate of Rs. 3,835/- per quantha. Feeling aggrieved thereby, the claimants have preferred the L.A.R. No. 4 of 2009 before the learned 4th Joint Civil Judge, Senior Division, Ahmednagar. The Reference Court vide order dated 01.10. 2014 had enhanced the compensation up to Rs. 9750/- per R.

3. It is the contention of the learned counsel for the appellant that, no evidence was produced before the Reference Court by the respondents to prove that the value of their lands is more than the rate fixed by the Special Land Acquisition Officer.

4. Moreover, it is contended that the Reference Court has awarded the interest under Section 28 and 34 of the Land Acquisition Act (for short L.A. Act) from the date of possession of land. As per the view taken by Full Bench of this Court in **State of Maharashtra Vs. Kailash Shiva Rangari** reported in **2016 [3] Mh.L.J. 457**, it should be from the date of award. Hence requested to allow the appeal.

5. It is the contention of learned counsel for the respondent that, the Reference Court has considered the

evidence on record properly and enhanced the compensation as per the prevailing rate. The learned counsel for the respondent states that the rate of compensation awarded by the Reference Court is within four times than the rate awarded by the Special Land Acquisition Officer. Therefore, in view of Government Resolution dated 3rd of November, 2016 present appeal may be dismissed.

6. I have heard all learned counsel for the parties. Perused the judgment and order passed by the Reference Court. The Reference Court has relied upon the evidence rendered by the claimants and enhanced the compensation on the award prepared by Special Land Acquisition Officer. In my view, the Reference Court has considered all the facts while enhancing the compensation hence I do not find any infirmity in it. Moreover, the enhancement is within four times, therefore, in view of the Government Resolution dated 03.11.2016 the appeals are not maintainable.

7. However, the Reference Court has awarded the interest under Section 28 and 34 of the Land Acquisition Act from the date of possession of the acquisition of the land. But in view of the Full Bench judgment of this Court in Kailas Shiva Rangari, (supra), interest should be awarded from the date of

award and not from the date of possession.

8. In view of the above, I pass the following order.

ORDER

- (I) The appeal is partly allowed.
- (ii) The compensation enhanced by reference Court is kept as it is.
- (iii) The respondents are entitled for the interest on compensation amount from the date of award.
- (iv) Respondents are permitted to withdraw the amount deposited by the Appellant, if not withdrawn, after proper calculation, along with accrued interest thereon.

All pending civil applications disposed of.

**(S.G. DIGE,)
JUDGE**

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