

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

FIRST APPEAL NO.798 OF 2010

The State of Maharashtra
Through Collector, Beed.

..Appellant
(Orig. Respondent)

Versus

1. Sopan S/o Dhondiram Jogde,
age 48 years, occ. Agri, r/o Roshanpuri
Tq. Majalgaon, Dist. Beed.

2. Pradip S/o Tulsiram Jogde,
age 28 years, occ. And r/o as above.

..Respondents
(Orig. Petitioners)

...

Smt. D. S. Jape, AGP for the Appellant.

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CORAM : S. G. DIGE, J.

DATED : 11th OCTOBER, 2022.

ORAL JUDGMENT (Per: S. G. Dige, J.):-

1. Being aggrieved and dissatisfied by the judgment and Award passed by the Additional District Judge, Beed (for short 'Reference Court') appellant/orig. respondent preferred this Appeal.

2. It is the contention of the learned counsel for the appellant that, lands of respondents/orig. petitioners were acquired for construction of sub-distributory Canal under Jayakwadi Project admeasuring 1.09 H. The Special Land Acquisition Officer has awarded Rs.100/- to

105/- per R and learned Reference Court has enhanced it to Rs.315/- per R. This is exorbitant. The learned counsel further submits that, the learned Reference Court relied upon sale instances at Exhibit-31 dated 05.05.1989, which is for the dry land admeasuring 2H 45R of village Roshanpuri at the rate of Rs.395/- per R. The learned Reference Court had ignored the fact that, Exhibit-31 is post Section 4 Notification. The interest of compensation is given by the learned Reference Court is from the date of possession. As per the view taken by the Full Bench of this Court in a case of **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.

3. I have heard the learned counsel. Perused the judgment and order passed by the learned Reference Court.

4. It appears from the record that, in connected group of matters under the same Notification and the same acquisition, this Court (Coram: S. V. Gangapurwala, J.) has passed an order in First Appeals dated 26.11.2020 and those Appeals filed by the State i.e. the appellant are dismissed. The said judgment and order is not challenged. Hence, has attained finality. The learned Reference Court has awarded compensation on the basis of sale instances and well reasoned order

is passed by the learned Reference Court while enhancing the compensation. Hence, I do not find any infirmity in it. The enhancement is within four times. In respect of the interest, the Reference Court has awarded interest under Section 28 and 34 of the Land Acquisition Act from the date of possession of land. As per the view taken by the Full Bench of this Court in a case of **State of Maharashtra Vs. Kailash Shiva Rangari** (supra) it should be from the date of Award.

5. In view of the above, I pass following order:

ORDER

- a. Appeal is partly allowed.
- b. The compensation enhanced by the learned Reference Court is kept as it is.
- c. The respondents are entitled for the interest under Section 28 and 34 of the Land Acquisition Act on compensation amount from the date of award.
- d. Respondents are permitted to withdraw the amount deposited by the appellant, if not withdrawn, after proper calculation, alongwith accrued interest thereon.

(S. G. DIGE)
JUDGE