

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3601 OF 2018

The Godavari Marathwada
Irrigation Development Corporation,
Thr the Executive Engineer,
Latur Minor Irrigation Division Latur,
Dist. Latur

... APPELLANT

(Ori. Respdt. No.3)

VERSUS

1. Nandkumar Bhimrao Hake,
Age : 57 years, Occu. : Agriculture,
R/o. : Makni, Tq. Ahemedpur, Dist. Latur ... (Ori. Claimant)
2. The State of Maharashtra,
Through The Collector, Latur
3. The Special Land Acquisition Officer,
(Purna Project) Latur,
Dist. Latur

... RESPONDENTS

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Mr. A.M. Phule – Advocate for Appellant
Mr. R.D. Biradar h/f. Mr. S.L. Puri – Advocate for Respondent No.1
Mr. P.M. Kulkarni - AGP for Respondent Nos.2 and 3

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CORAM : S.G. DIGE, J.

DATE : 6th October, 2022

ORAL JUDGMENT :

. This First Appeal is preferred by the acquiring body
taking exception to the award in land acquisition reference

under Section 18 of the Land Acquisition Act, 1894 (*for short 'the Act'*) bearing L.A.R. No. 553 of 2008. The judgment and award passed by the Civil Judge, Senior Division, Ahmedpur (*for short 'the Reference Court'*) whereunder there has been enhancement in rate of valuation of land.

2. The land of respondent No.1 situated in Gut No.150 ad-measuring 03H 42R alongwith fruit trees was acquired for village Kharabwadi Storage Tank. The Special Land Acquisition Officer (*for short 'the S.L.A.O.'*) has awarded compensation amount of Rs.824/- per Are. Respondent No.1 filed claim petition before the Reference Court for enhancement of the compensation. The Reference Court has awarded amount of Rs.3,750/- per Are and enhanced compensation for fruit bearing trees by increasing 20% of Government valuation. Against the said judgment and award this appeal.

3. It is contention of learned Counsel for appellant that, the Reference Court has committed error in considering the sale instance at Exh.20 dated 28th November, 2000 and has

awarded exorbitant compensation. The Reference Court has awarded the interest under Sections 28 and 34 of the Act from the date of possession. As per view of full bench of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari - 2016 (4) ALL MR 513***, and ***State of Maharashtra Vs. Ramesh Tukaram Meshram - 2018 (1) ALL MR 645***, the interest should be from the date of award. Hence, requested to allow the appeal.

4. It is contention of learned Counsel for respondent No.1 that, the Reference Court has considered the evidence produced by the respondent No.1 and sale instance of the same village, on that basis rate has been increased. Learned Counsel further submits that, the compensation enhanced by the Reference Court is slightly more than four times.

5. I have heard all the learned Counsel. Perused judgment and order passed by the Reference Court.

6. Learned Counsel for claimant/respondent No.1 submitted that, the connected L.A.R.'s, arising out of same

judgment and award are settled before Lok Adalat and they have accepted compensation @ Rs.3,125/- per Are. In this First Appeal the learned Counsel for claimant/respondent No.1 is ready to accept the compensation @ Rs.3,125/- per Are instead of @ Rs.3,750/-. The Reference Court has awarded interest from the date of possession. As per view of Full Bench of this Court in Kailash Shiva Rangari (*supra*), it should be from date of award. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is partly allowed.
- (b) The Clause No.5 of operative part of the Judgment and Award, dated 17.03.2012 passed in L.A.R. No. 553 of 2008 by the learned Civil Judge, Senior Division, Ahmadpur, is modified, and, it is held that the claimant is entitled for the interest under Sections 28 and 34 of the Land Acquisition Act, 1894, from the date of Award. For the first year the interest would be at the rate of 9% per annum and for the subsequent period it

would be at the rate of 15% per annum till realization of the entire amount of the Award.

- (c) The Appeal is disposed of.
- (d) No order as to costs.
- (e) In view of disposal of first appeal, nothing further survives for consideration in pending civil application, the same stands disposed of accordingly.

(S.G.DIGE, J.)