

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3597 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. Venkti Annarao Hake,
Age : 25 years, Occu. - Education & Agri.,
R/o : Makni, Tq. Ahemedpur, Dist. Latur
2. Nivrutti Nandkumar Hake,
Age : 27 years, Occu. : Education & Agri.,
R/o. : Makni, Tq. Ahemedpur, Dist. Latur,
3. The State of Maharashtra,
Through The Collector, Latur
4. The Special Land Acquisition Officer,
(Purna Project) Latur,
Dist. Latur

... RESPONDENTS
(Resp.Nos.1&2-Ori. Claimants)

...

Mr. A.M. Phule - Advocate for Appellant
Mr. R.D. Biradar h/f. Mr. S.L. Puri - Advocate for Respondent
Nos.1 and 2
Ms. D.S. Jape - AGP for Respondent Nos.3 and 4

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CORAM : S.G. DIGE, J.
DATE : 29th September, 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. 562 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 Nos.1 and 2 situated in Gut No.149 ad-measuring 00H 04R 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. The respondent Nos.1 and 2 filed claim petition before the Reference Court for enhancement of the compensation. The Reference Court has awarded amount of Rs.3,125/- per Are. 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 Nos.1 and 2 that, the Reference Court has considered the evidence produced by the respondent Nos.1 and 2 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 within four times.

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

6. The S.L.A.O. has awarded Rs.824/- per Are while the

Reference Court has awarded Rs.3125/- per Are. The compensation awarded by the Reference Court is within four times of the compensation that has been awarded by the S.L.A.O. It covered under the Government Resolution dated 3rd November, 2016 along-with subsequent corrigendum dated 23rd February, 2017 and 13th August, 2018. Exh.20 - sale instance on which the Reference Court has relied upon is 30 to 40 meters away from the acquired land and from the same village. The connected group of First Appeals from same land acquisition proceedings are settled before the Lok Adalat.

7. Considering the fact that the enhanced compensation granted in the present matter IS within four times, by relying upon the sale instance dated 20th November, 2000 of Rs.1,50,000/-, the Reference Court has awarded compensation of Rs.1,25,000/- per Acre to the acquired land i.e. Rs.3,125/- per Are which is reasonable. Hence, I do not find any infirmity in the impugned order. 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. 562 of 2008 by the learned Civil Judge, Senior Division, Ahmadpur, is modified, and, it is held that the claimant is entitle for the interest under Sections 23 and 28 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.)