

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.1614 OF 2008**

The State of Maharashtra
Through Collector, Latur.

..Appellant
(Orig. Respondent)

Versus

Venubai Ganeshrao Munde,
Age 45 years, Occu. Agri. And H.H.
R/o Thodga, Tq. Ahmedpur, Dist. Latur.

..Respondent
(Orig. Claimant)

...

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

...

**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 III Additional District Judge, Latur (for short 'Reference Court') appellant/orig. respondent preferred this Appeal.

2. It is the contention of the learned counsel for the appellant that, land of respondent/orig. claimant was acquired for construction of minor irrigation tank. The Special Land Acquisition Officer has awarded Rs.21,000/- per Hectare for Grp-I Dry Land, Rs.23,000/- per Hectare for Grp-II Semi Irrigated Land and Rs.25,000/- per Hectare for Grp-III for Irrigated Land. The Reference Court has enhanced it to Rs.80,000/- per Hectare for Dry Land and Rs.1,20,000/- per Hectare for Wet Land. This is exorbitant. The learned

counsel further submits that, the Reference Court relied upon Sale Deed at Exhibit-38. The Reference Court had ignored the fact that admittedly, vendor and vendee are relative's inter-se. The Reference Court had not paid any intention to the fact that there is Nala nearby the land under Sale Deed. The Reference Court had relied upon Sale Deed at Exhibit-40. The Reference Court had not considered the fact that the date of Sale Deed is 20.05.1991 i.e. just after four days from the date of Section 4 Notification i.e. 16.05.1991. The interest on compensation is given by the 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 Reference Court has awarded compensation on the basis of sale instances and well reasoned order is

passed by the 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 respondent is entitled for the interest under Section 28 and 34 of the Land Acquisition Act on compensation amount from the date of award.
- d. Respondent is permitted to withdraw the amount deposited by the appellant, if not withdrawn, after proper calculation, alongwith accrued interest thereon.

(S. G. DIGE)
JUDGE