

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO. 1157 of 2004

The State of Maharashtra
Through Collector, Osmanabad

...Appellant
(Ori. Respondent)

versus

Ashok Govind Engle
Age 35 years, Occ. Agri.
R/o. Dabka, Tq Omerga
District Osmanabad

...Respondent
(Ori. Claimant)

.....
Mrs. D.S. Jape, A.G.P. for the appellant
None for the respondent

.....
CORAM : S. G. DIGE, J.

**Date of Reserving
the Judgment : 26.08.2022**

**Date of pronouncing
the Judgment : 29.09.2022**

JUDGMENT:-

1. This appeal is preferred against the judgment and award dated 28.2.2003 passed by the Civil Judge, Senior Division at Osmanabad (for short "the Reference Court") thereby enhancing the compensation amount. This appeal arises out of acquisition of house property of the respondent/claimant for Turori medium project at village Dabka, Tq. Omerga, district Osmanabad.

2. Brief facts of the case are as under:-

The house property of the respondent is acquired for Turori

medium project and award was passed. Dissatisfied with the inadequate compensation amount awarded by the Special Land Acquisition Officer, the respondent-original claimant filed Reference petition before the Reference Court for enhancement of compensation. The said petition was allowed by the Reference Court and has awarded the enhanced amount of compensation. The S.L.A.O. has awarded Rs.3128/- whereas the reference court has enhanced it Rs.3800/-. The said judgment and award is under challenge in this appeal.

3. It is the contention of the learned A.G.P. appearing for the appellant that reference court ought to have considered that the S.L.A.O. after following due procedure and considering all aspects awarded adequate compensation to the respondent-claimant. The reference court has committed error in considering the valuation of house property based on the report of Civil Engineer who is private valuer and thereby arrived at incorrect conclusion. Learned A.G.P. for the appellant further submitted that the rate of interest is given by the reference court from the date of possession, however, as per the view expressed by the Full Bench of this Court in the 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, learned A.G.P. for the appellant requested to allow this appeal.

4. No one appeared for the respondent, hence I have gone through the record.

5. I have heard learned A.G.P. for the appellant. I have perused judgment and order of the Reference Court. The Reference court has enhanced the compensation on the basis of evidence of approved valuer Mr. Ramchandra Baraskar. The Reference has considered the evidence of approved valuer and from the evidence of this approved valuer, it appears that he had visited the house property and prepared valuation report after applying D.S.R. rates of the year 1985-86. There is nothing on record to show that the said report is totally bogus report. In my view, there is no reason to disbelieve the finding recorded by the reference court. The compensation enhanced by the reference court is within four times. Considering the evidence on record, I do not find any infirmity in the judgment and order of Reference Court.

6. The Reference court has awarded interest on the enhanced amount from the date of possession, as per the view expressed by the Full Bench of this Court in the 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. In view of above, I pass the following order:-

O R D E R

- I. The appeal is partly allowed.
- II. The judgment and award passed in L.A.R. No.319 of 1991 on 28.02.2003, so far as it relates to grant of interest under Section 28 of the Act, from the date of issuance of

Section 4 Notification is set aside. Instead, such an interest is made payable from the date of passing of the award.

- III. Modified award be prepared accordingly.
- IV. Save and except the above, remaining part of the award is maintained as it is.
- V. The respondent is permitted to withdraw the deposited amount.
- VI. The appeal stands disposed of in the aforesaid terms.

(S. G. DIGE J.)

rlj/