

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1155 of 2004

The State of Maharashtra Through Collector, Osmanabad	...Appellant (Ori. Respondent)
--	-----------------------------------

versus

Tulsiram Sadashiv Gaikwad Age 55 years, occ. Agri. R/o. Dabka, Tq Omerga District Osmanabad	...Respondent (Ori. Claimant)
--	----------------------------------

.....
Mr. S.S. Dande, A.G.P. for the appellant
None for the respondent

.....

AND
FIRST APPEAL NO. 1156 of 2004

The State of Maharashtra Through Collector, Osmanabad	...Appellant (Ori. Respondent)
--	-----------------------------------

versus

Vilas Nagorao Mane Age 22 years, occ. Agri. R/o. Dabka, Tq Omerga District Osmanabad	...Respondent (Ori. Claimant)
---	----------------------------------

.....
Mr. A.B. Chate, 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. These appeals are preferred against the judgment and award dated 20.02.2003 passed by the Civil Judge, Senior Division at Osmanabad (for short "the Reference Court") thereby enhancing the compensation amount. These appeals are arising out of acquisition of house properties for the same project i.e. Turori medium project at village Dabka, Tq. Omerga, district Osmanabad acquired by the same award dated 31.7.1985. Hence, both these appeals are being decided by this common judgment.

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

The house properties of the respondents are acquired for Turori medium project and award was passed. Dissatisfied with the inadequate compensation amount awarded by the Special Land Acquisition Officer, the respondents-original claimants filed Reference petitions before the Reference Court for enhancement of compensation. The said petitions were allowed by the Reference Court and has awarded the enhanced amount of compensation. In L.A.R. No. 313 of 1991 the S.L.A.O. has awarded Rs.10,360/- whereas the reference court has enhanced it Rs.11,000/-. In L.A.R. No. 317 of 1991 the S.L.A.O. has awarded Rs.3289/- whereas the reference court has enhanced it Rs.14,800/-. The said judgment and awards are under challenge in these appeals.

3. It is the contention of the learned A.G.P. appearing for the

appellants 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 respondents-claimants. The reference court has committed error in considering the valuation of house properties based on the report of Civil Engineer who is private valuer and thereby arrived at incorrect conclusion. Learned A.G.P. for the appellants 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 appellants requested to allow these appeals.

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

5. I have heard learned A.G.P. for the appellant. I have perused judgment the order of the Reference Court. The Reference court in both the matters have enhanced the compensation on the basis of evidence of approved valuer Mr. Ramchandra Baraskar. The Reference Court has considered the evidence of approved valuer and from the evidence of this approved valuer, it appears that he had visited the house properties 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 appeals are partly allowed.
- II. The judgments and award passed in L.A.R. No.313 of 1991 on 20.2.2003 and in L.A.R. No. 317 of 1991 on 21.02.2003, so far as it relates to grant of interest under Section 28 of the Act, from the date of issuance of Section 4 Notification are 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 respondents are permitted to withdraw the deposited amount.
- VI. The appeals stand disposed of in the aforesaid terms.

(S. G. DIGE J.)

rlj/