

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 4152 OF 2008

1] The State of Maharashtra,
Through the Collector, Jalgaon.

2] The Spl. Land Acquisition Officer,
Jalgaon.

.. APPELLANTS
[Ori. Respondents]

VERSUS

Shri Bhimsing Daga Patil,
Age 52 Yrs., Occ. - Agril.,
R/o. Vanjari Kh. Tq. Parola,
Dist. Jalgaon.

.. RESPONDENT
[Ori. Opponent]

WITH

FIRST APPEAL NO.4151 OF 2008

1] The State of Maharashtra,
Through the Collector, Jalgaon.

2] The Spl. Land Acquisition Officer,
Jalgaon.

.. APPELLANTS
[Ori. Respondents]

VERSUS

Shri Ravindra Shankar Patil,
Age 25 Yrs., Occ. - Agri.,
R/o. Vanjari Kh. Tq. Parola,
Dist. Jalgaon.

.. RESPONDENT
[Ori. Opponent]

WITH
FIRST APPEAL NO.4154 OF 2008

1] The State of Maharashtra,
Through the Collector, Jalgaon.

2] The Spl. Land Acquisition Officer,
Jalgaon.

.. APPELLANTS
[Ori. Respondents]

VERSUS

Shri Vasant Dayaram Lohar,
Age 55 Yrs., Occ. - Agri.
R/o. Pathak Galli, Parola,
Tq. Parola, Dist. Jalgaon.

.. RESPONDENT
[Ori. Opponent]

...

Mr.S.S.Dande, AGP for the appellant – State in all three matters.

Mr.Y.H.Lagad, Advocate holding for Mr.S.S.Deshmukh,
Advocate for respondent in First Appeal No. 4151/2008.

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CORAM : S.G.DIGE, J.
DATE : 10.10.2022

ORAL JUDGMENT :

1] These appeals are preferred by the State against enhancement of the compensation awarded by the Civil Judge Senior Division, Amalner, District Jalgaon [for short 'the Reference Court'].

Brief facts of the case are as under:-

2] The lands of the respondents are acquired for Bhokarbari irrigation project. The Special Land Acquisition Officer [for short 'SLAO'] has awarded compensation of Rs.14,000/- per hector, the Reference Court has enhanced the compensation @ Rs.289/- per Aar for Jirayat land and @ Rs.578/- per Aar for bagayat land. Against the said judgment and order, these appeals.

3] The learned AGP for the appellants-State submits that the original claimants – respondents admit the contents of award entry no. 15 and 17 in Land Gat No.116/3 at village Bhokarbari. The Reference Court has enhanced the compensation on the basis of the sale deed dated 10th January, 1986 for Rs.35,000/- per Hector. The Reference Court has not considered properly the said sale instances, mere on that sale instances, the enhancement is granted, which is illegal and improper. The Reference Court totally failed to consider the principle of law that unless and

until the contents of award are proved by leading the evidence, the same cannot be relied upon, as such, the judgment is not just and proper. The sale instance in the award has been considered by the Reference Court, which is also illegal. The learned AGP further submits that the Reference Court has awarded the interest under Section 28 of the Land Acquisition Act from the date of possession. The respondents are entitled for the interest from the date of award, as per the view taken 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.

4] Though the respondents are served in First Appeal Nos.4152/2008 and 4154/2008, none appears for the said respondents.

5] The appeals are of the year 2008, hence, I am deciding these appeals on merit.

6] I have heard the learned AGP. Perused the judgment and order passed by the Reference Court. The

Reference Court has awarded the compensation @ Rs.289/- per Aar for jirayat land and Rs.578/- per Aar for bagayat land. In connected group of appeals, this Court [Coram : S.V.Gangapurwala, J.], by order dated 26.02.2013 in First Appeal Nos.2529/2011 and 2531/2011, has confirmed the order passed by the Reference Court. The said judgment is not challenged and has attained the finality, hence, this Court cannot take different view. The Reference Court has awarded the interest under Section 28 of the Land Acquisition Act from the date of possession. The respondents are entitled for the interest from the date of award as per the principle laid down by the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari** [supra]. In view of the above, I pass the following order :-

ORDER

- i] Appeals are partly allowed.
- ii] The respondents are entitled for the interest under Sections 28 and 34 of the Land Acquisition Act from the date of award.

iii] Appeals are disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC