

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 170 of 2004

The State of Maharashtra

...Appellant
(Ori. Respondent)

versus

Mohan Dagadu Anbhule
Age major, Occ. Service.
R/o. Nimgaon-Gangarda
Tq Karjat, District Ahmednagar

...Respondent
(Ori. Claimant)

.....
Mr. S. S. Dande, A.G.P. for the appellant
Mr. V.P. Latange, advocate 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. Being aggrieved and dissatisfied with the judgment and award passed by the Civil Judge, Senior Division, at Ahmednagar (for short "Reference Court") this appeal is preferred by the appellant-original respondent.

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

The respondent's-original claimant's 22 Are land was acquired

for construction of canal at village Gangarda, Tq. Karjat, district Ahmednagar. The S.L.A.O. has awarded compensation of Rs.102/- per Are whereas the reference Court has enhanced it Rs.300/- per Are. Against the said judgment and order of the reference court this appeal is filed.

3. It is the contention of learned A.G.P. for the appellant that no evidence is produced on record by the respondent-original claimant for enhancement of compensation amount and inspite of that the reference court has relied on sale instance and enhanced the compensation amount, which is improper. Learned A.G.P. for the appellant further submitted that the interest is awarded on the compensation amount from the date of possession of the land, 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 the appeal.

4. It is the contention of learned counsel for respondent that enhanced compensation awarded by the reference court is proper. The respondent claimant has proved before the reference court that the value of acquired land is more than the compensation awarded by the S.L.A.O. The S.L.A.O. has fixed the price of acquired land without considering the market price. The reference court while enhancing the compensation has considered all aspects. Hence, the

order passed by the Reference Court is legal and valid.

5. I have heard learned counsel for both the parties. I have perused the judgment and award passed by the Reference Court. The Reference Court has enhanced the compensation on the basis of sale deed which is at Exh.9 dated 6.5.1985. The Reference Court has observed that this sale deed is executed by Saheba Satale in favour of Madhav Mane in respect of 40 Are land from survey No. 239/1B for consideration of Rs.25,000/-. The land in sale deed was irrigated land. The land of the respondent is not irrigated land, hence, reference court has considered half of the prevailing market value. As per the sale deed, Rs.625/- per Are for irrigated land reference court has considered half of it i.e. Rs.312/- per Are for acquired land. I do not find any infirmity in the reasoning given by the reference court. Moreover, the compensation awarded by the reference court falls under four times. Hence, I do not find any merit in the contention of the appellant that the exorbitant compensation is awarded by the reference court.

6. The Reference court has awarded the 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.128 of 1990 on 17.01.2000, 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.)

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