

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.997 OF 1992

The State of Maharashtra

...Appellant

Versus

Mohan Joti Rede

...Respondent

...

Ms Tanaya Goswami, AGP for the Appellant -State.

Mr. Rupesh Bobade for the Respondent

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th JULY, 2022.

P. C. :-

1. The Appellant-State has challenged the Judgment and Award dated 22/11/1991 in Land Reference No.136 of 1989. By the impugned judgment the Reference Court has enhanced the market rate of the acquired land at Rs.25,000/- per hectare with statutory benefit under Section 23(1-A) and 23(2) of the Land Acquisition Act, 1894. While granting statutory benefit under Section 28 of the said Act, the Reference Court has granted interest with effect from the date of possession, which was taken prior to the publication of Notification under Section 4(1) of the Land Acquisition Act.

2. The records reveal that portion of the land admeasuring 1

Hectare 64 R from Gut No.1277 of village Mahalung was acquired for Ujani Right Back Canal. Notification under Section 4(1) was issued on 31/03/1981. The Award under Section 11 of the Act was made on 13/02/1984. Not being satisfied with the quantum of compensation determined by the Land Acquisition Officer, the Respondent Claimant filed reference under Section 18 of the Land Acquisition Act.

3. By the impugned Judgment and Award the Reference Court determined the compensation @ Rs.25,000/- per hectare. Since the possession of the land was taken prior to publication of notice under Section 4(1) of the Act, statutory benefit was given from the date of taking over possession of the acquired land. Being aggrieved by the enhancement of the compensation, the State has preferred this appeal under Section 54 of the Land Acquisition Act.

4. Heard Ms. Tanaya Goswami, learned AGP for the Appellant-State and Mr. Rupesh Bobade, learned counsel for Respondent No.1. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records reveal that the land situated at Mahalung

belonging to several other owners was acquired for the same purpose, by the same Notification. In reference under Section 18 of the Land Acquisition Act, filed by the other land owners, the Reference Court had determined compensation at Rs.25,000/- per hectare and had granted interest from the date of possession. The State had challenged the said judgment in First Appeal No.711 of 1993 and two other appeals, which were disposed of by this Court by judgment dated 22/06/2011. This Court (Coram : Justice A.S. Oka, as his lordship then was) confirmed the market value determined by the Reference Court, but modified the rate of interest under Section 23(1-A) from the date of possession to the date of publication of notification under Section 4(1) of the Act till the date of the Award under Section 11 of the Land Acquisition Act. Similarly, the starting point of interest under Section 28 of the Act is held to be from the date of Award under Section 11 of the Act. The present case is fully covered by the said judgment. Hence, the following order:-

- (i) The impugned awards insofar as the market value and grant of statutory benefits under Section 23(1-A) and Section 23(2) of the Land Acquisition Act, 1894 are confirmed. However, the interest under Section 23(1-A) shall be payable from the date of the publication of notification under

Section 4(1) till the date of the Award under Section 11 of the said Act;

- (ii) The claimants will be entitled to statutory benefit under Section 28 of the Land Acquisition Act, 1894. However, the starting point of payment of interest shall be from the date of the award under Section 11 of the Land Acquisition Act, 1894, which is 12th February, 1984. to that extent, the impugned awards are modified;
- (iii) The appeals are partly allowed on above terms with no orders as to costs;
- (iv) It will be open for the claimants to apply to the State Government for grant of rental compensation in terms of the policy of the State Government.

6. Pending application (s), if any, stand (s) disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)