



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

FIRST APPEAL NO. 879 OF 2022

GOVINDRAO S/O. SHAMRAO SURWANSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.U.B. Bilolikar, Advocate for the appellant.
Mr.A.M. Phule, AGP for the respondents – State & SLAO.
Mr.S.B. Patil, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATE : 31.07.2024

PC :-

01. This appeal arises out of the acquisition made for construction of Lendi Project from village Marajwadi, Tal. Mukhed, Dist. Nanded. When the present appeal was taken up for hearing, the learned Counsel appearing for the appellant – claimant tendered across the bar the copy of the common Judgment delivered by this Court in First Appeal No.988 of 2012 with First Appeal No.989 of 2012. The learned Counsel submitted that, this Court in the aforesaid common Judgment has determined the market value of the lands acquired from village Marajwadi for the Lendi Project at the rate of Rs.1,25,000/ per hectare for dry lands, Rs.1,87,500/ per hectare for semi irrigated lands and Rs.2,50,000/ per hectare for irrigated lands. The learned Counsel

submitted that, the land involved in the appeal being acquired for the same project vide the same notification and under the same Award, the compensation in this matter also be enhanced at the rate of Rs.1,25,000/ per hectare for dry land and Rs.1,87,500/ per hectare for semi irrigated land and Rs.2,50,000/ per hectare for irrigated land as has been given in the said decided appeals. The learned Counsel submitted that, the lands, which is involved in the present appeal and the lands which were involved in First Appeal Nos.988 of 2012 and 989 of 2012 are quite similar in quality and potentiality. The learned Counsel, in the circumstances, prayed for the enhancement in the amount of compensation at par with the compensation enhanced in the decided appeals by this Court.

02. Learned Counsel appearing for the Acquiring Body does not dispute the factual correctness of the facts mentioned by the learned Counsel for the appellant. The learned Counsel, however, pointed out that, in all these reference applications, the Reference Court has awarded the interest under Sections 28 and 34 of the Act wrongly from the date of issuance of Section 4 notification and therefore prayed for necessary modification in the impugned judgments and awards to that extent. The learned Counsel further submitted that, so far as categorization of the

lands is concerned, it should be in accordance with the categorization made by the SLAO in the Award passed under Section 11 of the Act. Learned Counsel for the appellant does not have any objection for determining the market value of the acquired lands in tune with the categorization made by the SLAO of the acquired lands.

03. Learned AGP supported the arguments advanced on behalf of the learned Counsel appearing for the acquiring body.

04. In view of the submissions made, when I perused the impugned Judgments and Awards, it is revealed that, the lands involved in this appeal and the lands which were the subject matter of First Appeal No.988 of 2012 and 989 of 2012 were acquired for the same Lendi Project vide same notification under Section 4 of the Act published in the Official Gazette on 09.07.1998 and the Award under Section 11 in that regard was passed on one and the same date i.e. 25.10.2004. Though the SLAO appears to have determined the market value of the acquired lands at different rates ranging between Rs.60,000/ to Rs.75,000/, after having considered the evidence on record, this Court in First Appeal No.988 of 2012 with First Appeal No.989 of 2012 has given the uniform rate for the acquired lands at the rate of Rs.1,25,000/ per

hectare for dry land and at the rate of Rs.2,50,000/ per hectare for irrigated land.

05. In view of the fact that, the acquisitions were made for the same project vide the same notification and under the same Award, the present appeal also deserves to be allowed in the similar terms by enhancing the compensation at par with the compensation as was enhanced in First Appeal Nos.988 of 2012 with 989 of 2012.

06. While considering the appeal for enhancement in the amount of compensation, the legal infirmity brought to my notice by the learned Counsel appearing for the acquiring body as about the grant of interest on the amount of enhanced compensation by the Reference Court under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification cannot be ignored. The learned Counsel for the acquiring body relied upon the full bench Judgment of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513*** and the Judgment of the learned Single Judge in the case of ***The State of Maharashtra & Ors Vs. Ramesh Tukaram Meshram & Ors, 2018 (1) ALL MR 645***. As per the law laid down in the aforesaid Judgments, the interest under Sections 28 and 34 of the Act can only be

granted from the date of passing of the Award under Section 11 of the Act and not from any prior date. In the circumstances, the impugned Judgment and the Award to the aforesaid extent needs to be modified. For the reasons stated above, the following order is passed.

ORDER

(i) The appellant is held entitled for the compensation at the rate of Rs.1,25,000/ per hectare for non-irrigated lands, Rs.1,87,500/ per hectare for semi irrigated lands, and Rs.2,50,000/ per hectare for irrigated lands and consequently to receive the enhanced compensation accordingly. The appellant is also held entitled to receive the statutory benefits on the enhanced amount of compensation.

(ii) The appellant is also held entitled to receive the interest under Sections 28 and 34 of the Act from the date of passing of the Award under Section 11 of the Act i.e. from 25.10.2004 on the enhanced amount of compensation as well as on the amount of compensation as was awarded by the Reference Court.

(iii) The impugned Judgments and awards insofar as they relate to grant of interest under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification or from the date of possession stand set aside.

- (iv) The appeal is partly allowed in the aforesaid terms.
- (v) Pending Civil Applications, if any, stand disposed off.

[KISHORE C. SANT, J.]