



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

FIRST APPEAL NO. 367 OF 2017

Haibatrao s/o Govinda Dhole  
since deceased, through L.Rs.

1. Jayabai Haibatrao Dhole  
Age: 77 years, Occu: Household  
Occu: Household  
R/o: Tembhapuri, Tehsil Gangapur  
District Aurangabad
2. Sheshrao s/o Haibatrao Dhole  
Age: 47 years, Occu: Agri.,  
R/o: Tembhapuri, Tehsil Gangapur  
District Aurangabad
3. Ramesh s/o Haibatrao Dhole  
Age: 42 years, Occu: Agri.,  
R/o: Tembhapuri, Tehsil Gangapur  
District Aurangabad
4. Kantilal Haibatrao Dhole  
Age: 39 years, Occu: Agri.,  
R/o: Tembhapuri, Tehsil Gangapur  
District Aurangabad

... APPELLANTS  
(Ori. Claimants)

**VERSUS**

1. The State of Maharashtra  
Through the Special Land Acquisition Officer,  
Aurangabad (Ori. Defendant)
2. The Executive Engineer,  
Minor Irrigation Division No.1,  
Near Akashwani, Aurangabad

... RESPONDENTS

Mr. Anand P Bhandari, Advocate for appellants  
Mr. D. B. Bhange, AGP for respondent No.1

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**CORAM : Y. G. KHOBRAGADE, J.**

**DATE : 28 MARCH 2024**

**ORDER :-**

1. The appellants have invoked the jurisdiction of this Court under Section 96 of the Code of Civil Procedure and questioned legality and validity of the Judgment and Award Dated 18.04.2016, passed by the learned Joint Civil Judge, Senior Division, Vaijapur, District Aurangabad in L.A.R. No.219 of 1994, to the extent of denial of interest component w.e.f. 13.06.2000 till 23.02.2015, as per Section 28 of the Land Acquisition Act, 1894.

2. The learned Counsel for the appellants submits that on 16.09.1986, the Special Land Acquisition Officer passed an award under Section 11 of the Land Acquisition Act. Thereafter, the claimants filed L.A.R. No.219 of 1994 before the Reference Court for enhancement of compensation. However, on 13.06.2000, the learned Reference Court dismissed the claim of the appellants for want of admissible evidence supporting the claim of enhancement of compensation.

3. Being aggrieved by said order, the appellants approached this Court by filing First Appeal No.309 of 2001. On 23.02.2015, this Court set aside the judgment and award dated 13.06.2000 passed by the Reference Court in L.A.R. No.219 of 1994 and remanded the matter to the Reference Court for fresh decision by giving an opportunity to lead evidence. Accordingly, the appellants/claimants adduced additional evidence. Accordingly, the learned Reference Court granted enhanced compensation, but denied statutory benefit of interest w.e.f. 13.06.2000 to 23.02.2015. Therefore, claimants submits that, denial of said benefits is illegal, bad in law and prayed for modification of the impugned award to the extent of component of interest.

4. In support of these submissions, the learned Counsel for the appellants/claimants has placed reliance on the following case laws.

- “(i) ***Rattiram Vs. Union of India and others*** (Civil Appeals No.11177 and 11178 of 2011 decided on 17.02.2016);
- (ii) ***Patel Joitaram Kalidas and others Vs. Special Land Acquisition Officer and another*** – (2007) 2 SCC 341;
- (iii) ***Marotisa s/o Tansa Bhamkar (since deceased through his L.Rs.) Vs. State of Maharashtra*** – 2015(6) Mh.L.J. 256;

- (iv) ***State of Madras Vs. A.M. Nanjan and another*** – AIR 1976 SC 651;
- (v) ***Karan Singh and others Etc. Vs. Union of India*** – AIR 1997 SC 3889.”

5. Per contra, the learned AGP canvassed that, while passing the order in Review Application No.156 of 2016 in First Appeal No.309 of 2001, this Court already held that grounds set out for the review is based on the law laid down by the Hon’ble Apex Court in case of ***Rattiram Vs. Union of India*** (cited supra), which has been rendered subsequent to the order passed by this Court on 23.02.2015 in First Appeal No.309 of 2001. Therefore, as per the explanation to Rule 1 of Order 47 of the Code of Civil Procedure, the subsequent decision of the superior Court in any other case, shall not be a ground for review of the judgment and rightly denied the interest component for the period w.e.f. 13.06.2000 to 23.02.2015.

6. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the record. It is not in dispute that, on 13.06.2000, the Ld. Reference Court passed the Judgment and Award and had granted compensation. Being aggrieved by said Judgment & Award, the appellants/claimants filed First Appeal No.309 of 2001 before this Court. On 23.02.2015, this Court passed

the order in First Appeal No. 309 of 2001 and remanded the matter to Reference Court for fresh trial by granting an opportunity to the claimants/appellants to lead oral as well as documentary evidence in respect of seeking enhancement of compensation. After the oral as well as documentary evidence led by the appellants/claimants, the learned Reference Court being aggrieved by said order, the appellants approached this Court by filing First Appeal No.309 of 2001. On 23.02.2015, this Court set aside the judgment and award dated 13.06.2000 passed by the Reference Court in L.A.R. No.219 of 1994 and remanded the matter to the Reference Court for fresh decision by giving an opportunity to lead evidence. The court passed the impugned judgment and award dated 18.04.2016. The operative part of the award reads as under:-

- “1. The present reference shall stand partly allowed.*
- 2. The respondents are hereby directed that, they shall pay an amount of Rs.4,61,340/- (Rs. Four lac sixty-one thousand three hundred and forty only) as enhanced compensation to the claimants.*
- 3. The respondents are hereby further directed that, they shall pay component interest at the rate of 12% from 03.11.1983 till 16.09.1986 on the enhanced compensation to the claimants, as per Section 23(1A) of the Land Acquisition Act, 1894.*

4. *The respondents are hereby further directed that, they shall pay 30% solatium on enhanced compensation to the claimants, as per Section 23(2) of the Land Acquisition Act, 1894.*
5. *The respondents are hereby further directed that, they shall pay interest at the rate of 9% p.a. for one year from 26.04.1980 and interest at the rate of 15% p.a. from the date of expiry of said period of one year on enhanced compensation until actual realization of the same, excluding the period from 13.06.2000 till 23.02.2015 to the claimants, as per Section 28 of the Land Acquisition Act, 1894.*
6. *The respondents are hereby further directed that, they shall pay interest at the rate of 9% p.a. for one year from 26.04.1980 and interest at the rate of 15% p.a. from the date of expiry of said period of one year on the compensation awarded by the respondent No.1 until the date of actual payment of compensation, excluding the period from 13.06.2000 till 23.02.2015 to the claimants, as per Section 34 of the Land Acquisition Act, 1894.*
7. *The respondents are hereby further directed that, they shall pay the cost of present reference to the claimants.*
8. *An award be drawn up accordingly.”*

7. As observed in foregoing paragraphs, in earlier round of litigation, the appellants/claimants had filed First Appeal No.309 of 2001 and challenged Judgment and Award dated 10.01.2000 passed by the learned Civil Judge Senior Division, Aurangabad in L.A.R. No.381 of 1996 to the extent of enhancement of compensation.

Needless to say that, on 23.02.2015, Co-ordinate Bench of this Court [Coram: M. T. Joshi (as His Lordship then was)] remanded the matter. The operative part of the order reads as under:-

**ORDER**

*“I) The appeal is hereby allowed without any order as to costs.*

*II) The award of the learned reference Court is hereby quashed and set aside.*

*III) The case is remanded back to the learned reference Court. The learned reference Court shall grant opportunity to the appellant to lead oral as well as documentary evidence within a period of four months from the date of appearance and, thereafter, the learned reference Court to make efforts for early disposal of the reference proceedings.*

*(IV) In case of enhancement of compensation, the appellant would not be entitled for statutory interest over the same from the date of earlier award till the date of present order.*

*(V) Parties are directed to appear before the reference Court on 7th April, 2015.”*

8. Indeed, the appellants/claimants filed Review Application No.156 of 2016 and sought review of order dated 23.02.2015 passed in First Appeal No. 309 of 2001. On 02.09.2016, the Co-ordinate bench of this Court has rejected said Review Application.

9. After remanding the matter, the learned Reference Court decided the matter afresh after considering oral as well as documentary evidence produced on record and enhanced the compensation to the tune of Rs.4,61,340/- for the acquired land. The learned Reference Court granted interest @ 12% from 03.11.1983 to 16.09.1986, 30% solatium on enhanced compensation, 9% interest p.a. for one year from 26.04.1980 and 15% p.a. interest from the date expiry of period of one year on enhanced compensation till its realization, excluding the period from 13.06.2000 till 23.02.2015 as per the judgment and order dated 23.02.2015 passed by this Court in First Appeal No.309 of 2001, because was delay caused on the part of the claimants. Since this Court already declined to grant interest for the delayed period i.e. 13.06.2000 to 23.05.2015, therefore, the appellants/claimants are not entitled for the interest for said period. On perusal of impugned Judgment & Award it appears that, the learned trial Court has well considered component of interest and denied it for the delayed period, which does not appears illegal and bad in law. Therefore, I do not find any substantial ground to interfere with findings of the learned Reference Court.

10. In view of the above discussions, present **First Appeal is dismissed.**

11. No Order as to costs.

[ Y. G. KHOBRADE, J. ]

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