



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

72 FIRST APPEAL NO.438 OF 2023

The Executive Engineer,
Minor Irrigation Division,
Osmanabad, Dist. Osmanabad.

... Appellant
[Orig. Resp.No.3]

Versus

- 1] Prabhu s/o Sitaram Chavan,
Age 65 years, occu. Agriculture,
R/o Gopalwadi, Taluka and
District Osmanabad.
- 2] The State of Maharashtra,
Through the Collector,
Osmanabad, Dist. Osmanabad.
- 3] Special Land Acquisition Officer,
P.T. & M.I.W.No.1, Osmanabad.

... Respondents
[No.1 Orig. Claimant & Nos.2
& 3 are Orig. Respondents]

...
Mr. A D Gadekar, Advocate for Appellant.

Mr. Mr. Y. S. Pareek, h/f Mr. A. B. Kale, Advocate for Respd. No.1/ Applicant.

Mr. K. B. Jadhavar, AGP for Respondent Nos.2 & 3.

...

AND

**CIVIL APPLICATION NO. 10749 OF 2024
IN FA/438/2023**

CORAM : **KISHORE C. SANT, J.**

DATE : 17th October, 2024.

P.C.:

. In view of the submissions of the learned advocates, the first
appeal itself is taken up for final disposal.

2 The learned counsel for applicant relies on the order dated 18th July, 2024 passed by this Court in First Appeal No.435 of 2023. The said order was passed on the basis of a copy of order dated 5th August, 2021 passed by this Court in First Appeal No.1311 of 2020 with connected matter. This Court in the said case maintained the award, except modification in clause 5. The said clause was in respect of grant of interest. The dispute is only about the date from which the interest to be granted under Section 28. This Court had modified the order granting interest from the date of award, instead of the date of possession.

3 Both learned counsels for the parties have no dispute over this.

4 The learned counsel respondent / claimant accepts that in the present case also the date from which the interest is directed needs to be modified. In the present case, in clauses Nos.6 and 7, the Reference Court has directed to pay the interest from 20th August, 2004 instead of 17th April, 2006. The date 20th August, 2004 was the date of notification under Section 4, whereas 17th April, 2006 is the date of passing of the award. Considering the earlier order, this Court finds that the only change is required in clauses Nos.6 and 7 in dates. The date 20th August, 2004 shall be replaced by the date 17th April, 2006. The applicant / claimant would be entitled to receive the interest from 7th April, 2006.

5 It is further submitted that the amount of compensation is entirely deposited in this Court, which is lying in the office of this Court. In view of this order, the applicant / respondent / claimant is entitled to receive the amount deposited in this Court by calculating the interest from 17th April, 2006 instead of 20th August, 2004. The appellant / acquiring body shall be entitled to refund of the amount of difference, in view of the calculations of interest.

6 Thus, the appeal itself disposed of in above terms.

7 Nothing survives in the civil application for withdrawal of amount and the same also stands disposed of.

8 Any other pending civil applications also stand disposed of.

[KISHORE C. SANT, J.]

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