



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

935 FIRST APPEAL NO. 2374 OF 2012

SHANKAR LAXMAN SHINDE

VERSUS

THE STATE OF MAH AND ANR

Mr. G.K. Sontakke, Advocate for the appellant.

Ms. R.R. Tandale, AGP for the respondent-State.

Mr. R.B. Deshpande, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 12.09.2025

PC :-

01. Heard learned Advocates for the parties. By way of this appeal, the appellant has approached this Court seeking enhancement in the amount of compensation awarded by the learned Trial Court in LAR No. 231 of 1998, passed by the learned Civil Judge, Senior Division, Latur. The appeal was filed and thereafter same was dismissed for default. It was restored after about five years. This appeal is out of six appeals filed against common judgment and order passed by the Reference Court.

02. After restoration, the appeals were taken up for final disposal. This Court in three appeals, namely, First Appeal nos. 1241 of 2013, 1259 of 2013 and 1258 of 2013 passed order on 29.09.2021 and disposed off the appeals granting compensation @ Rs. 28/- per sq. ft. However, while allowing the appeals, the this Court specifically observed that the appellants shall not be entitled to receive statutory benefits for the delayed period, that caused in filing the appeals. It is further

directed that the appellant shall not be entitled to receive the benefits for the period from dismissal of the appeal for default till the date of restoration. So far there is no dispute that the appellant is ready to accept that.

03. Learned Advocate for the respondent points out that when three appeals were taken up for final disposal on 29.09.2021, he could have very well circulated the appeal along with said three appeals. The respondent will have to unnecessarily bear burden of statutory benefits till now, though it was expected of the appellant to take this appeal along with other appeals.

04. This Court finds substance in the submission, as all the appeals are arising out of common judgment and order and the Advocate is same for all the respondents – original claimants. In view of the above, following order :-

ORDER

- i) First Appeal stands partly allowed.
- ii) The claimant is held entitled to receive compensation @ Rs. 28/- per sq. ft. Fresh award be passed. The appellant, however, shall not be entitled to receive statutory benefits for the delayed period. Further for the period from the order of dismissal in default till the date of restoration and thereafter he shall not be entitled to said benefit from September, 2021 onwards.

Needless to say the the interest shall be paid from the date of award in view of the judgment in the case of State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL.M.R. 513.

- iii) The Reference Court judgment be modified to that extent.

[KISHORE C. SANT, J.]