

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

FIRST APPEAL NO. 831 OF 2014

Prabhakar Sitaram Lokre and others .. Appellants

Versus

The State of Maharashtra and others .. Respondents

**WITH
FIRST APPEAL NO. 828 OF 2014**

Shankar Namdeo Lokre Died
through L.Rs. Ganesh and others .. Appellants

Versus

The State of Maharashtra and others .. Respondents

**WITH
FIRST APPEAL NO. 829 OF 2014**

Aatmaram Namdeo Lokre Died
through L.Rs. Chandrakant and others .. Appellants

Versus

The State of Maharashtra and others .. Respondents

**WITH
FIRST APPEAL NO. 830 OF 2014**

Vyankatesh Netaji Mundhe Died
through L.Rs. Ganesh and others .. Appellants

Versus

The State of Maharashtra and others .. Respondents

**WITH
FIRST APPEAL NO. 2007 OF 2015**

Shridhar Sadashiv Lokre .. Appellant

Versus

The State of Maharashtra and others .. Respondents

Shri Ganesh V. Kore, Advocate for Appellants in all matters.

Shri S. G. Sangle, A.G.P. for Respondent Nos. 1 and 3 in all matters.

Mrs. Kalpalata B. Bharaswadkar, Advocate for the Respondent No. 2 in all matters.

CORAM : S. V. GANGAPURWALA, J.

DATE : 02ND SEPTEMBER, 2015.

PER COURT :

. In these appeals the claimants had filed references U/Sec. 18 of the Land Acquisition Act (for short "L. A. Act"). The said references are partly allowed. Mr. Kore, the learned counsel submits that, the present appeals are filed to the extent of non grant of interest U/Sec. 28 of the L. A. Act by the Reference Court on the enhanced amount of compensation and the claimants are not agitating with regard to market value of the land determined. The learned counsel submits that, once enhanced amount of compensation is granted, granting of

interest U/Sec. 28 of the L. A. Act is a matter of rule, though it is discretionary. It is only, if, exceptional circumstances are shown, then the interest U/Sec. 28 of the L. A. Act can be denied. The learned counsel relies on the judgment of the Apex Court in the case of Major General Kapil Mehar and another Vs. Union of India and another reported in *2015(4) Mh.L.J. 40*. So also the judgment of the Apex Court in the case of Haridwar Development Authority Vs. Raghubir Singh reported in *AIR 2010 SC 1754*.

2. Mrs. Bharaswadkar, the learned counsel for the acquiring body and the learned Assistant Government Pleader submit that, awarding interest U/Sec. 28 of the L. A. Act is a discretion of the Court. The fact that, no interest has been awarded would mean that said claims have been rejected. The learned counsel submit that, it is not the right of the claimant to claim interest and the same vest with the discretion of the Court. They rely on the judgment of the Apex Court in the case of Union of India Vs. Pramod Gupta reported in *AIR 2005 SC 3708 (1)*.

3. I have considered the submissions canvassed by the learned counsel for respective parties.

4. As the appeals are restricted to the extent of non grant of interest U/Sec. 28 of the L. A. Act, I am not required to consider

the reasonableness of amount of compensation awarded.

5. There cannot be any dispute with the proposition that to award interest U/Sec. 28 of the L. A. Act is discretion of the Court. However, discretion that vest with the Court in awarding interest U/Sec. 28 of the L. A. Act is not an ordinary or unregulated discretion, but judicial discretion which is to be exercised as per judicial norms and legal principles. The Apex Court in the case of **Haridwar Development Authority Vs. Raghubir Singh** referred to supra has observed that, award of interest on enhanced amount U/Sec. 28 of the L. A. Act is normal rule. In the case of **Union of India Vs. Pramod Gupta** referred to supra relied by the learned counsel, the Apex Court has observed that, the discretion vested in the Court may not be exercised in exceptional circumstances or where the party has expressly waived the said interest. In the present case, no exceptional circumstances have been brought on record to disentitle the claimants from the interest U/Sec. 28 of the L. A. Act. The Reference Court has passed the award in the year 2013. As yet the amount is not paid by the acquiring body to the claimants. Considering the above, I am inclined to award interest U/Sec. 28 of the L. A. Act.

6. The appeals are partly allowed. The respondents in addition to the award passed by the Reference Court shall pay to

the claimants interest U/Sec. 28 of the L. A. Act on the enhanced amount of compensation awarded by the Reference Court for one year from the date of possession at the rate of 9% per annum and thereafter at the rate of 15% per annum. The first appeals accordingly stand disposed of. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Sept. 15