

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

FIRST APPEAL NO. 1016 OF 2015

The Executive Engineer Beed .. Appellant

Versus

Sadashiv Tukaram Gholwe and others .. Respondents

WITH

FIRST APPEAL STAMP NO. 7206 OF 2014

The Executive Engineer Beed .. Appellant

Versus

Nawnath Maruti Kedar and others .. Respondents

WITH

FIRST APPEAL STAMP NO. 7240 OF 2014

The Executive Engineer Beed .. Appellant

Versus

Chandar Manik Kedar and others .. Respondents

WITH

FIRST APPEAL STAMP NO. 7209 OF 2014

The Executive Engineer Beed .. Appellant

Versus

Ramkrishna Pandharinath Kedar
and others .. Respondents

WITH

FIRST APPEAL STAMP NO. 7266 OF 2014

The Executive Engineer Beed .. Appellant

Versus

Ginyandeo Sonaji Dhakne and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 7212 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Bhimrao Sopan Kedar and others	..	Respondents

**WITH
FIRST APPEAL STAMP NO. 7228 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Mathurabai Bhimrao Kedar and others	..	Respondents

**WITH
FIRST APPEAL STAMP NO. 7263 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Kalyan Manik Kedar and others	..	Respondents

**WITH
FIRST APPEAL STAMP NO. 7231 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Hanumant Jalindarrao Gholwe and others	..	Respondents

**WITH
FIRST APPEAL STAMP NO. 7256 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Ashrubai Narayan Gholwe and others	..	Respondents

**WITH
FIRST APPEAL STAMP NO. 7260 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Mathurabai Bhimrao Kedar and others .. Respondents

WITH
FIRST APPEAL STAMP NO. 7225 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Ramdas Tukaram Gholwe and others .. Respondents

WITH
FIRST APPEAL STAMP NO. 7237 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Venkati Bhimrao Kedar and others .. Respondents

WITH
FIRST APPEAL STAMP NO. 7244 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Sampat Baburao Kedar and others .. Respondents

WITH
FIRST APPEAL STAMP NO. 7221 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Shriniwas Abhiman Gholwe and others .. Respondents

WITH
FIRST APPEAL STAMP NO. 7234 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Babasaheb Vithal Kedar and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 7216 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Ramhari Namdeo Doiphode and others .. Respondents

**WITH
FIRST APPEAL NO. 1916 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Gangadhar Ramchandra Gholve
and another .. Respondents

**WITH
FIRST APPEAL NO. 1910 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Sumant Raosaheb Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1913 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Shamrao Ginyandeo Thombre and others.. Respondents

**WITH
FIRST APPEAL NO. 1914 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Gorakh Janardhan Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1915 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Manik Haribhau Kedar and others .. Respondents

WITH
FIRST APPEAL NO. 1917 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Hanumant Vishnu Gholve and others .. Respondents

WITH
FIRST APPEAL NO. 1918 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Sudhakar Laxman Gholve and others .. Respondents

WITH
FIRST APPEAL NO. 1919 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Balasaheb Ramrao Gholve and others .. Respondents

WITH
FIRST APPEAL NO. 1920 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Sanjay Mahadeo Gholve and others .. Respondents

WITH
FIRST APPEAL NO. 1921 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Shankar Sandipan Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1922 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Bankat Pandurang Ghole and others	..	Respondents

**WITH
FIRST APPEAL NO. 1923 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Vishwanath Pandurang Thombre and another	..	Respondents

**WITH
FIRST APPEAL NO. 1924 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Fulchand Janardhan Gholve and others	..	Respondents

**WITH
FIRST APPEAL NO. 1925 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Ramkisan Ginyandeo Thombre and others	..	Respondents

**WITH
FIRST APPEAL NO. 1927 OF 2014**

The Executive Engineer Beed	..	Appellant
Versus		
Vishnu Nivrutti Kedar and another	..	Respondents

WITH

FIRST APPEAL NO. 1928 OF 2014

The Executive Engineer Beed .. Appellant
Versus
Bhimrao Deorao Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1929 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Shivaji Laxman Thombre and others .. Respondents

**WITH
FIRST APPEAL NO. 1930 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Dinkar Sandipan Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1931 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Vinayak Bhagwanrao Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1932 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Shriram Ganpati Gholve and others .. Respondents

**WITH
FIRST APPEAL NO. 1933 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Manik Machhindra Gholve and others .. Respondents

WITH**FIRST APPEAL NO. 1934 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Shravan Haribhau Kedar and others .. Respondents

WITH**FIRST APPEAL NO. 1935 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Achut Deorao Gholve and others .. Respondents

WITH**FIRST APPEAL NO. 1936 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Ramhari Ranoba Gholve and others .. Respondents

WITH**FIRST APPEAL NO. 1937 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Pralhad Namdeo Thombre and others .. Respondents

WITH**FIRST APPEAL NO. 1938 OF 2014**

The Executive Engineer Beed .. Appellant

Versus

Narayan Eknath Gholve and another .. Respondents

**WITH
FIRST APPEAL NO. 1939 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Gorakh Pandurang Thombre and others .. Respondents

**WITH
FIRST APPEAL NO. 1940 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Annasaheb Ramrao Gholve
Died through L.Rs. Vrundavanibai
Annasaheb Ghovle and others .. Respondents

**WITH
FIRST APPEAL NO. 1941 OF 2014**

The Executive Engineer Beed .. Appellant
Versus
Hanumant Shivaji Ghovle and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3490 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Ashruba Sopan Ghovle and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3497 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Sopan Sukdeo Gaikwad and others .. Respondents

WITH

FIRST APPEAL STAMP NO. 3501 OF 2013

The Executive Engineer Beed .. Appellant
Versus
Dattatraya Kundalik Ghovle
and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3507 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Vilas Annasaheb Ghovle and another .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3515 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Vithal Bhairu Gaikwad and others .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3518 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Prakash Balasaheb Ghovle and another .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3522 OF 2013**

The Executive Engineer Beed .. Appellant
Versus
Vikas Annasaheb Ghovle and another .. Respondents

**WITH
FIRST APPEAL STAMP NO. 3487 OF 2013**

The Executive Engineer Beed .. Appellant

Versus

Ramrao Dharmaraj Ghovle and another .. Respondents

WITH**FIRST APPEAL STAMP NO. 3494 OF 2013**

The Executive Engineer Beed .. Appellant

Versus

Shantabai Kondiba Ghovle and others .. Respondents

WITH**FIRST APPEAL STAMP NO. 3511 OF 2013**

The Executive Engineer Beed .. Appellant

Versus

Sandipan Kondiba Ghovle and others .. Respondents

Shri Ruturaj C. Patil, Advocate for Appellants/State in all matters.

Shri R. C. Patil, Shri R. A. Deshmukh, Shri V. P. Latange, Advocate for respective respondents/claimants.

Shri D. R. Korde and Shri D. V. Tele, A.G.P. for Respondent/State in respective appeals.

CORAM : S. V. GANGAPURWALA, J.

DATE : 15TH SEPTEMBER, 2015.

PER COURT :-

. In all these matters the acquiring body has assailed the award passed by the Reference Court under Section 18 of the Land Acquisition Act (for short "L. A. Act").

2. Mr. Patil, the learned counsel for the appellant strenuously contends that, the Special Land Acquisition Officer (for the sake of brevity "S. L. A. O.") had awarded compensation at the rate of

Rs. 1,015/- and Rs. 920/- per R. The Reference Court enhanced it to Rs. 3,000/- per R. According to the learned counsel the sale deeds relied upon cannot be said to be exemplar sale transactions. According to the learned counsel the S. L. A. O. while passing award has rightly considered all the relevant aspects of the matter. The certified copies of the sale deeds Exh. 32 to Exh. 39 could not have been relied upon while computing the compensation amount. The learned counsel further submits that, the Reference Court has awarded interest U/Sec. 34 and 28 of the L. A. Act from the date of possession. The possession has been taken on 19.07.2003. The notification U/Sec. 4 of the L. A. Act is issued on 09.12.2004. As the possession has been taken prior to the notification U/Sec. 4 of the of the L. A. Act, the interest U/Sec. 34 and 28 of the of the L. A. Act, could not have been awarded from the date of possession.

2. The learned counsel further submits that, interest U/Sec. 34 of the L. A. Act has been awarded on the enhanced amount of compensation. The same is also illegal. The same has to be on the amount as determined by the Collector.

3. The learned counsel for the respondents/claimants in the respective appeals submits that, in fact the sale transactions on record were showing the valuation of the property at the rate of Rs. 5,000/- to Rs. 6,000/- per R. However, the Court has not awarded the said compensation amount. There was in fact no impediment for the Court to award compensation at the rate of

Rs. 6,000/- per R. Only on the ground that, said sale deeds are of small areas of lands, the same are discarded. The learned counsel for claimants did not dispute the date of the possession being delivered i. e. 19.07.2003 and the date of notification U/Sec. 4 of the L. A. Act is 09.12.2004. However, submit that, interest has been rightly awarded.

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

5. The Court has accepted the valuation of the lands as referred to in the sale deeds. If the sale deeds relied by the claimants are perused then, the sell consideration ranges from Rs. 5,000/- to Rs. 6,000/- per R. The Court considering the fact that, area of the said sale deeds is less than 1 Acre has not relied upon the same. However, has reduced it by more than 40%. The said amount appears to be reasonable. The main emphasis of Mr. Patil, the learned counsel for the appellant is about the illegality committed by the Reference Court while awarding interest U/Sec. 34 and 28 of the L. A. Act, and more particularly Clause 5 to 8 of the operative part of the order in each reference. The interest cannot be awarded from the date of possession, if possession is taken prior to the notification U/Sec. 4 of the L. A. Act. In light of that, the interest U/Sec. 34 and 28 of the L. A. Act can only be awarded from the date of notification U/Sec. 4 of the L. A. Act.

6. In the light of that, the operative parts from Clauses 5 to 8 of the impugned judgment and award are quashed and set aside. Instead the same is ordered as under.

7. The claimants are entitled for interest U/Sec. 34 of the L. A. Act at the rate of 9% per annum for one year from 09.12.2004 and thereafter after lapse of one year at the rate of 15% per annum till the realization of the amount. The claimants are entitled for interest U/Sec. 28 of the L. A. Act on the enhanced amount of compensation at the rate of 9% per annum from 09.12.2004 for a period of one year. After lapse of one year i. e. from 09.12.2005 at the rate of Rs. 15% per annum on the enhanced amount of compensation till realization. Rest of the award passed by the Reference Court is upheld and maintained. Rest of the statutory benefit would follow. The first appeals accordingly stand partly allowed, however, with no orders as to costs.

[S. V. GANGAPURWALA, J.]