

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

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32 FIRST APPEAL NO. 1907 OF 2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
SWAMIRAO BHAGWANRAO GHOLVE AND ORS

WITH FIRST APPEAL NO.1899/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
MACHHINDRA PANDURANG THOMBRE AND ANOTHER

WITH FIRST APPEAL NO.1900/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
PRADIP BALASAHEB GHOLVE U/G SHARDADEVI BABASAHEB GHOLVE
AND ANOTHER

WITH FIRST APPEAL NO.1901/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
KESHAV GANPATRAO GHOLVE AND OTHERS

WITH FIRST APPEAL NO.1902/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
SHRIRAM SHAHURAO GHOLVE AND OTHERS

WITH FIRST APPEAL NO.1903/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
GORAKH RANOBA GHOLVE AND OTHERS

WITH FIRST APPEAL NO.1904/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
JAGANNATH TRIMBAK GHOLVE AND OTHERS

WITH FIRST APPEAL NO.1905/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
LIMBAJI BHANUDAS GHOLVE AND OTHERS

WITH FIRST APPEAL NO.1906/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
SHESHRAO DEORAO GHOLVE, DIED, THROUGH LEGAL HEIRS-
BHARAT AND OTHERS

WITH FIRST APPEAL NO.1908/2014
THE EXECUTIVE ENGINEER, BEED MINOR IRRIGATION DIV.
VERSUS
PADMAKAR MADHUKAR GHOLVE AND OTHERS

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

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

Shri D. V. Tele, A.G.P. for Respondent/State

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CORAM : S. V. GANGAPURWALA, J.

DATE : 22nd September, 2015

PER COURT :

1. 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
appellants 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 L. A. Act, the interest U/Sec. 34 and 28 of the L. A. Act, could not have been awarded from the date of possession.

3. 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.

4. 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.

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

6. 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 Clauses 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.

7. In the light of above, 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:

- i. 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.

- ii. 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 of the amount.

8. 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.)

JPC