

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

WRIT PETITION NO.3241 OF 2009.

Kalyan Shanker Ghogare and
others. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.A.B.Kale, advocate for the petitioners.
Mr.B.R.Survase, advocate for Respondent No.3.
Mrs.M.A.Deshpande, Asstt. Govt. Pleader for the
State.

...

**WITH
WRIT PETITION NO.5799 OF 2009.**

Godavari Marathwada Irrigation
Development Corporation,
Aurangabad through its
Executive Engineer, Jalna. ... Petitioner.

Versus

The State of Maharashtra and
others. ... Respondents.

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Mr.B.R.Survase, advocate for the petitioner.
Mr.A.B.Kale, advocate for Respondent No.4.
Mrs.M.A.Deshpande, Asstt. Govt. Pleader for the
State.

...

**WITH
WRIT PETITION NO.5800 OF 2009.**

Godavari Marathwada Irrigation
Development Corporation,
Aurangabad, through its
Executive Engineer, Jalna. ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

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Mr.B.R.Survase, advocate for the petitioner.
Mr.A.B.Kale, advocate for Respondent Nos.4 to 13.
Mrs.M.A.Deshpande, Asstt. Govt. Pleader for the
State.

**CORAM : S.V.GANGAPURWALA AND
A.M.BADAR, JJ.**

Date : 29.01.2016.

PER COURT :

1. Heard.

2. The petitioners in W.P.No.3241/2009 and
W.P.No.5800/2009 assail the same award passed by
the SLAO U/s 28-A of the Land Acquisition Act.
The petitioner in W.P.No.5799/2009 assails a

separate award but on the same lines.

3. W.P.No.3241/2009 is filed by the claimants, whereas W.P.No.5799/2009 and W.P.No.5800/2009 is filed by the Acquiring Body.

4. According to the claimants while deciding application U/s 28-A of the Land Acquisition Act, interest U/s 34 of the Land Acquisition Act is awarded from the date of notification U/s 4 of the Land Acquisition Act. However, the same is only on the amount of market value determined by the Collector and not considering the other components as laid down under sub-sections of Section 23 of the Land Acquisition Act, whereas according to the Acquiring Body, the interest U/s 34 is awarded from the date of Section 4 notification instead of from the date of the award.

5. The judgment of the Constitution Bench of the Apex Court in the case of **"Sunder Vs. Union of India"** reported in **AIR 2001 Supreme Court 3516** is clear i.e. the interest U/s 34 is

to be awarded on the amount determined by the Collector, so also the amount awarded under different sub-sections of Section 23 of the Land Acquisition Act.

6. As far as interest U/s 34 of the Land Acquisition Act is concerned, the same would be payable from the date of notification U/s 4 of the Land Acquisition Act as the rental compensation would be payable from the date of possession till the notification U/s 4 of the Land Acquisition Act. Even the Circular issued by the Government dated 29.4.2002 clarifies the said position.

7. In light of the above, we pass the following order :

a) The impugned award passed U/s 28-A of the Land Acquisition Act, is modified only to the extent that the interest payable U/s 34 of the Land Acquisition Act, shall be on the market value awarded by the Collector from the date of Section 4 notification till the date of deposit of the amount, so also on the amounts awarded

under different sub-sections of Section 23 of the Land Acquisition Act.

b) The said amount shall be determined by the SLA0 expeditiously and preferably within three (3) months and upon determination of the amount by the SLA0, the State/Acquiring Body shall pay the amount within six (6) months thereafter.

c) The Writ petitions are disposed of. Rule disposed. No costs.

(A.M.BADAR, J.)

(S.V.GANGAPURWALA, J.)

