

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO.: 230 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Vasant S/o Bapurao Lambrud,
Age 40 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.

... RESPONDENTS
(Orig. Respd. 1 and Orig. Claimant)

WITH

FIRST APPEAL NO.: 231 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Navnath s/o Saheb Aajbe,
Age 65 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.

... RESPONDENTS
(Orig. Respd. 1 and Orig. Claimant)

WITH

FIRST APPEAL NO.: 232 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Kisan S/o Tukaram Lambrud,
Age 65 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.

... RESPONDENTS
(Orig. Respd. 1 and Orig. Claimant)

WITH

FIRST APPEAL NO.: 233 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Kalyan s/o Bapurao Lambrud,
Age 45 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.
3. Minabai W/o Kalyan Lambrud,
Age 42 years, Occu. Agriculturist,
R/o As above.
4. Prashant s/o Kalyan Lambrud,
Age 18 years, Occu. Agri.,
R/o As above.

5. Deelip S/o Deorao Bharate,
Age 45 years, Occu. Agri.,
R/o As above.
6. Rohidas S/o Deorao Bharte,
Age 42 years, Occu. Agri.,
R/o As above.
7. Ramdas S/o Deorao Bharate,
Age 42 years, Occu. Agri.,
R/o As above.

... RESPONDENTS

(Orig. Respd.1 and Orig. Claimants)

WITH

FIRST APPEAL NO.: 236 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT

(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Rangnath S/o Yada Aajbe,
Age 55 years, Occupation Agriculturist,
R/o Lambarwadi, Taluka Patoda,
District Beed.
3. Abasaheb S/o Rangnath Aajbe,
Age 35 years, Occupation Agriculturist,
R/o As above.
4. Angad S/o Rangnath Aajbe,
Age 30 years, Occupation Agriculturist,
R/o As above.
5. Nandraj s/o Babasaheb Lambrud,
Age 18 years, Occupation Agriculturist,
R/o As above.

... RESPONDENTS

(Orig. Respd.1 and Orig. Claimants)

WITH
FIRST APPEAL NO.: 237 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Jagannath S/o Patilba Aajbe,
Age 65 years, Occupation Agriculturist,
R/o Lambarwadi, Taluka Patoda,
District Beed.

... RESPONDENTS
(Orig. Respdt.1 and Orig. Claimant)

WITH
FIRST APPEAL NO.: 238 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT
(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Bajirao S/o Yada Aajbe,
Age 70 years, Occupation Agriculturist,
R/o Lambarwadi, Taluka Patoda,
District Beed.
3. Gokul S/o Bajirao Aajbe,
Age 40 years, Occupation Agriculturist,
R/o As above.
4. Bharat S/o Bajirao Aajbe,
Age 25 years, Occupation Agriculturist,
R/o As above.

(Abated as per the
Registrar Court's
order dt.8/2/11)

5. Prakash S/o Bhiku Bale,
Age 30 years, Occupation Agriculturist,
R/o As above.

... RESPONDENTS

(Orig. Respdt.1 and Orig. Claimants)

WITH

FIRST APPEAL NO.: 239 OF 2010

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT

(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Nana S/o Maruti Bale,
Age 55 years, Occupation Agriculturist,
R/o Lambarwadi, Taluka Patoda,
District Beed.

... RESPONDENTS

(Orig. Respdt.1 and Orig. Claimant)

WITH

FIRST APPEAL NO.: 943 OF 2011

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT

(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Ajinath S/o Kashinath Lambrud,
Age 30 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.

3. Bajirao S/o Kashinath Lambrud,
Age 25 years, Occu. Agri.,
R/o As above.
4. Rahibai W/o Kashinath Lambrud,
Age 50 years, Occu. Agri.,
R/o As above.
5. Jaibai W/o Bapurao Lambrud,
Age 35 years, Occu. Agri.,
R/o As above.
6. Parubai W/o Dattatraya Madke,
Age 30 years, Occu. Agri.,
R/o As above.

... RESPONDENTS

(Orig. Respd.1 and Orig. Claimants)

WITH

FIRST APPEAL NO.: 944 OF 2011

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT

(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Pandurang S/o Shrimant Aajbe,
Age 55 years, Occ. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.

... RESPONDENTS

(Orig. Respd.1 and Orig. Claimant)

AND

FIRST APPEAL NO.: 945 OF 2011

Maharashtra Krishna Valley,
Development Corporation,
through Executive Engineer,
Medium Project Division,
Osmanabad Dist. Osmanabad.

... APPELLANT

(Orig. Respondent No.2.)

VERSUS

1. The State of Maharashtra,
Through the Collector, at Beed.
2. Sarjerao S/o Mahada Aajbe,
Age 40 years, Occu. Agri.,
R/o Lambarwadi, Tq. Patoda,
Dist. Beed.
3. Rama S/o Mahada Aajbe,
Age 35 years, Occu. Agri.,
R/o As above.
4. Laxman S/o Mahada Aajbe,
Age 32 years, Occu. Agri.,
R/o As above.

... RESPONDENTS

(Orig. Respd.1 and Orig. Claimants)

...

Mr. Gulab Rajale, Advocate for Appellant in all the appeals.

Mr. K. N. Lokhande, AGP for Respondent / State in all the appeals.

Mr. D. R. Jaybhar, Advocate for Respondents / Claimants in all the appeals.

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CORAM : P. R. BORA, J.Reserved on : 01st August, 2016.**Pronounced on : 11th August, 2016.****JUDGMENT:**

. Heard the learned counsel appearing for the respective parties.

2 For construction of a storage tank at village Lambarwadi, Taluka Patoda, District Beed, certain lands were acquired by the

Maharashtra Krishna Valley, Development Corporation, through its Executive Engineer i.e. present Appellant. Notification under Section 4 of the Land Acquisition Act (hereinafter referred to as “the Act”) was published on 15th June, 2000. Notification under Section 6 was published in the Government Gazette on 3rd March, 2005. Possession of the lands was obtained by the Appellant Corporation on 4th October, 1999. The Special Land Acquisition Officer passed an award under Section 11 of the Act on 28th October, 2005. Since the land owners were not satisfied with the price offered by the SLAO, all these land owners (hereinafter referred to as “the Claimants”) preferred reference applications under Section 18 of the Act seeking enhancement of compensation. The Collector, Beed, forwarded all these applications to the District Court for adjudication. Total 11 of such reference applications were forwarded.

3 The material on record shows that the learned District Judge has decided the aforesaid 11 references in three groups. In the first group, a common judgment and award is passed in LAR Nos.98, 99, 101 and 108 of 2008. The second common judgment pertains to LAR Nos.106, 102, 103 and 105 of 2008, whereas, in the third group, LAR Nos.107, 100 and 104 of 2008 are decided by a common judgment. All the aforesaid three common judgments are

delivered on 17th January, 2009. The record further shows that in the aforesaid three groups of land acquisition references, the evidence in so far as of sale instances are concerned, is common. In all these three groups, one of the Claimant in the said group has deposed on behalf of all the Claimants and other witnesses as earlier mentioned are common in all the aforesaid groups of land acquisition references. The amount of compensation has been uniformly enhanced by the learned Reference Court in all the aforesaid three groups. In view of the facts as aforesaid, I deem it appropriate to decided all these 11 appeals by a common reasoning.

4 In each of the aforesaid matter, the SLAO had offered the compensation of the acquired land at the rate of Rs.537/- per Are, whereas the learned Reference Court has determined the market value of the said lands at the rate of Rs.1,500/- per Are and has accordingly, enhanced the amount of compensation.

5 In the present appeals, it is the contention of the Appellant Corporation that the amount of compensation has been arbitrarily enhanced by the Reference Court without there being any sufficient evidence therefor. It is also the contention of the Appellant Corporation that the sale instances relying on which the Reference

Court has determined the market value of the lands under acquisition, were not the comparable sale instances and could not have been relied upon for determining the market value of the lands under acquisition. It is the further contention of the Appellant that the Reference Court has wrongly awarded the interest under Section 34 of the Act. On all these grounds, the Appellant Corporation has prayed for setting aside the judgments and awards passed by the Reference Court in three common judgments referred to hereinabove.

6 As against it, the Respondents i.e. original Claimants in all these appeals have supported the judgments and awards impugned in the present appeals. According to the original Claimants, the Reference Court has awarded a very moderate enhancement in the amount of compensation and in fact, the Claimants are entitled for some more compensation than awarded by the Reference Court. The original Claimants have, therefore, prayed for dismissal of all these appeals.

7 Perusal of the impugned judgments and awards reveal that in each of the three common judgments, one of the Claimant in each group has deposed and in regard to the sale instances, the evidence of other two witnesses is common in all the three common

judgments. For the sake of convenience, I will be referring to the evidence as adduced in the common judgment delivered by the Reference Court in the matter of LAR No.98 of 2008 and other three connected matters. Total three witnesses were examined by the original Claimants in order to substantiate their claim. The Claimant in LAR No.98 of 2008 namely Vasant S/o Bapurao Lambrud deposed on behalf of all the Claimants in the connected reference applications and the two other witnesses examined were Rama Aajbe and Raosaheb Aajbe. The Respondent i.e. present Appellant, admittedly, did not adduce any oral or documentary evidence before the Reference Court.

8 The Claimants through the evidence of witnesses namely Rama Aajbe and Raosaheb Aajbe, duly got proved the sale-deeds, which were marked as Exhibits – 29, 30 and 31. The 7/12 extracts of the lands under acquisition were also placed on record. The electricity bills were also placed on record by the original Claimants so as to bring on record that electric motors were being used for irrigating their respective lands.

9 The learned Reference Court after having considered the oral and documentary evidence brought on record did determine the

market value of the lands under acquisition and accordingly, enhanced the amount of compensation and also awarded the statutory benefits provided under the provisions of the Act.

10 Perusal of the impugned judgments reveal that while determining the market value of the lands under acquisition alongwith the evidence of the respective Claimants, the Reference Court had relied upon the sale instances brought on record by the Claimants and the evidence of two independent witnesses namely Rama Aajbe and Raosaheb Aajbe. The comparable sale instances are at Exhibits – 29 to 31 in the record of the case. The learned Reference Court in paras 20 to 24 of the impugned judgments has elaborately discussed the evidence brought on record by the Claimants and more particularly as about the sale instances at Exhibits – 29 to 31.

11 As observed by the Reference Court, the lands, which were subject matter of sale-deeds at Exhibits – 29 to 31, had fetched the price ranging between Rs.2,500/- to Rs.2,600/- per Are. As further observed by the Reference Court, the lands, which were the subject matter of sale-deeds at Exhibits – 29 to 31, were the nearby lands situated at a short distance from the lands under acquisition. As further observed by the Reference Court, the Respondent i.e. present

Appellant did not bring on record any evidence to rebut the evidence adduced by the Claimants.

12 From the discussion made in the impugned judgments, it appears that the sale instances cited by the Claimants were objected to by the present Appellant on the ground that they were pertaining to small pieces of land and that the quality and potentiality of the said lands were incomparable with the lands under acquisition. The sale instances on record show that one was pertaining to 26 Ares land and the price received was of Rs.91,000/-; whereas the another land, which was also admeasuring 26 Ares had achieved the price of Rs.77,000/-. The sale instances were of the period prior to issuance of the notification under Section 4 of the Act. As observed by the learned Reference Court, the lands which were the subject matter of cited sale instances and the lands under acquisition were of the similar qualities i.e. to say the fertility, location and the potentiality of the lands were similar. In the circumstances, the learned Reference Court deemed it appropriate to determine the market value of the lands under acquisition on the basis of said comparable sale instances by recording a finding that the compensation awarded by the SLAO in respect of the acquired lands was quite inadequate and unreasonable.

13 From the sale instances at Exhibits – 29 to 31, it is quite evident that the price, which was received for the lands, which were the subject matter of the said sale-deeds is ranging in between 2,500/- to Rs.2,600/- per Are. From the discussion made by the learned Reference Court, it is further revealed that the 7/12 extracts produced on record by the respective Claimants pertaining to their respective lands were demonstrating that the Claimants were taking crops like Jawar, wheat, groundnuts, sunflower, sugarcane, cotton, Bajra, Toor, Udit etc. Considering all these circumstances, the Reference Court has determined the market value of the lands under acquisition at the rate of Rs.1,500/- per Are.

14 After having considered the material on record and more particularly the evidence brought before the Reference Court in the form of sale instances, it appears to me that the Reference Court has correctly determined the market value of the lands under acquisition. It further appears to me that a very moderate enhancement is awarded by the Reference Court in the amount of compensation. It is the contention of the Appellant in the present appeals and the learned counsel for the Appellant has vehemently argued that the sale instances, which were relied upon by the Reference Court were of the

small pieces of land, and as such, the same rate could not have been awarded to the lands under acquisition. The contention so raised is duly considered by the learned Reference Court and that is the reason that though in the cited sale instances the price received was to the tune of Rs.2,500/- to 2,600/- per Are, the Reference Court determined the market value of the lands under acquisition at the rate of Rs.1,500/- per Are i.e. about Rs.1,000/- less than the price fetched by the lands of the said sale instances. It, therefore, does not appear to me that the Reference Court has awarded any unreasonable amount of compensation. On the contrary, I reiterate that the amount of compensation has been very moderately enhanced by the learned Reference Court. I, therefore, do not see any reason to cause any interference in the findings so recorded and the enhancement so awarded by the learned Reference Court.

15 However, there appears substance in the submissions so made that the Reference Court has wrongly awarded the interest under Section 34 of the Act to the Claimants. As held by the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari**, reported in, **[(2016) 3 Mah LJ 457] (Full Bench)**, if the possession is taken before the notification under Section 4(1) of the Act is published and/or before the award is passed, the land-

owner would be entitled for interest as per Section 34 necessarily from the date of passing of the award under Section 11 of the Act, except in cases where the possession is taken in accordance with Section 17 of the Act, and in that situation only, the provision of Section 34 of the Act shall start operating from the date of possession. In the instant matters, it is not the case that the possession of the lands under acquisition was taken in accordance with Section 17 of the Act and in the circumstances, the orders passed by the Reference Court directing the present Appellant to pay interest under Section 34 of the Act, from the date of possession cannot be sustained and to that extent the impugned orders deserve to be modified. In the result, the following order:

ORDER

- I. The appeals are partly allowed.
- II. Clause (4) of the order in each of the award impugned in the present appeals whereby the Respondent i.e. present Appellant is directed to pay interest under Section 34 of the Land Acquisition Act to the Claimants from the date of possession, is modified to the effect that such

interest shall be paid from the date of the award and not from the date of possession on the amount determined by the SLAO till the actual payment of the said amount.

III. Award be modified accordingly.

IV. In the circumstances of the case, no order as to the costs.

[P. R. BORA, J.]

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