

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 FIRST APPEAL NO.3183 OF 2016
WITH CA/5739/2015 IN FA/3183/2016 WITH
FA/3184/2016 WITH CA/5727/2015 IN FA/3184/2016
WITH FA/3185/2016 WITH CA/5733/2015 IN
FA/3185/2016 WITH FA/3186/2016 WITH CA/5725/2015
IN FA/3186/2016 WITH FA/3187/2016 WITH
CA/5723/2015 IN FA/3187/2016 WITH FA/3188/2016
WITH CA/5737/2015 IN FA/3188/2016 WITH
FA/3189/2016 WITH CA/5735/2015 IN FA/3189/2016
WITH FA/3190/2016 WITH CA/5731/2015 IN
FA/3190/2016 WITH FA/3191/2016 WITH CA/5729/2015
IN FA/3191/2016

EXECUTIVE ENGINEER LATUR MEDIUM PROJECT DIVISION
LATUR AND OTHERS

VERSUS

BALBHIM BHUJANGRAO SURYAWANSHI

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Advocate for Appellants : Mr. Surwase B.R.
Mr. MS Patil For R/1 For sole respondent.

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CORAM : P.R.BORA, J.

DATE : 29th August, 2016.

PER COURT :

1) Heard. The present appeals are filed impugning the Awards only to the extent they relate to grant of interest under Section 34 of the Land Acquisition Act. Learned Counsel appearing for the appellant/acquiring body, placing his reliance on Full Bench judgment of

this Court in the case of **State of Maharashtra Vs. Kailash Shiva rangari - 2006 All M.R. 513,** submitted that the Reference Court has erred in awarding the interest under Section 34 of the Act from the date of taking possession. The learned Counsel invited my attention to the conclusions recorded by the Full Bench in para 33 of the aforesaid judgment, which are reproduced as under, -

"33. In view of the above, we answer the question of reference as under :

(a) if the possession is taken before the notification under Section 4(1) of the Land Acquisition Act is published and/or before the award is passed, the landowner would be entitled for interest as per Section 34 necessarily from the date of passing of the award under Section 11 of the said Act, except in cases where the possession is taken in accordance with Section 17 of the said Act, and in that situation only, the provision of Section 34

of the said Act shall start operating from the date of possession.

(b) We also hold that the decision of the Division Bench of this court in the case of Lalitkumar Himmatlal Shah Vs. State of Maharashtra and others, decided by Smt. Vasanti A.Naik and Shri Prasanna B.Varale,JJ. And reported in **2012(4) Mh.L.J. 742:(2012(4) All MR 779)**, lays down a correct position of law and it does not require reconsideration. "

2) The learned Counsel appearing for the original claimants in all these matters did not dispute the legal position and has fairly submitted for passing appropriate order.

3) In view of the Full Bench judgment of this Court, the order passed by the Reference Court awarding the interest under Section 34 of the Act, appears to be erroneous and deserves to be set aside. It is accordingly set aside. The remaining part of the Award is maintained as it

is.

4) The appeals are disposed of in the aforesaid terms. Pending Civil Applications, if any stand disposed of.

(P.R.BORA)
JUDGE

bdv/