

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 FIRST APPEAL NO. 1824 OF 2016
WITH FA/1822/2016 WITH FA/1823/2016 WITH FA/1825/2016

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
RAKHMAJI SHRIPATI SATPUTE AND OTHERS

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Advocate for Appellants : S.P. Deshmukh
Advocate for Respondents : C.K. Shinde for R/1 To 4

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CORAM : P.R. BORA, J.
DATE : 24-11-2016.

P.C. :

1. The present appeals filed are by the state taking exception to the common judgment and award passed by the Ad-hoc District Judge-1 and Additional Sessions Judge, Beed on 29.04.2008 in L.A.R. No. 425 of 2006 with connected land acquisition references.

2. When the present matter was taken up for hearing, Shri S.P. Deshmukh, the learned A.G.P. submitted that, the appellants are restricting the challenge to the impugned common judgment and award only to the extent of interest granted in the said award under Section 34 of the Act from the date of possession. The learned A.G.P. submitted that, in view of the full bench judgment of this court in the case of **State of Maharashtra V/s. Kailash Shiva Rangari** reported in **2016(4) ALLMR 513**, the interest so awarded is unsustainable and to that extent the impugned award

needs to be set aside.

3. Shri C.K. Shinde, the learned counsel appearing for the respondents i.e. original claimants in all these appeals submitted that, in the connected matters the state government has acquiesced the judgment and award delivered by the reference court and, as such, the present appeals need not have been filed by the state. The learned counsel, therefore, prayed for dismissal of the appeals.

4. I am however, not convinced with the argument so advanced by the learned counsel. As has been submitted by the learned A.G.P. the appellant-state has restricted its challenge to the impugned judgment and award only to the extent of award of interest under Section 34 of the Act and has not pressed the objection as about the determination of the amount of compensation, having regard to the fact that in connected matters the state has acquiesced the market value as determined by the concerned reference court. The objection as about the grant of interest under Section 34 of the Act from the date of possession is admittedly based on the law recently laid by the full bench of this court in the case of **State of Maharashtra V/s. Kailash Shiva Rangari** reported in **2016(4) ALLMR 513**. It does not appear to me that, as because the state has acquiesced the decision rendered in the connected land acquisition reference, the state can be

precluded from raising an objection against the wrongful grant of interest.

5. In view of submissions so made as above and having considered the law laid down by the full bench of this court in the case of **State of Maharashtra V/s. Kailash Shiva Rangari** reported in **2016(4) ALLMR 513**, it appears to me that the impugned award so far as it relates to grant of interest under Section 34 of the Act from the date of possessions needs to be modified. The other part of the award need not be interfered. Hence the following order.

ORDER

- i) All these appeals are partly allowed.
- ii) The common judgment award impugned in present appeals so far as it relates to grant of interest under Section 34 of the Act from the date of possession stands modified to the effect that such interest shall be payable from the date of award i.e. 01.11.2003.
- iii) The other part of the award is maintained as it is.
- iv) The appeals stand disposed of in the aforesaid terms.

(P.R. BORA)
JUDGE