

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL STAMP NO. 5205/2016

1. The Executive Engineer,
Kukadi Distribution & Construction
Division, Kolwadi, Tq. Karjat. ... APPLICANT

VERSUS

1. The State of maharashtra,
(Copy to be served on Got. Pleader
High Court of Bombay Benach at
Aurangabad.)
2. Pandurang Damodhar Kopnar,
Age : Major, Occu.: Agril.,
3. Sundarrao Damodhar Kopnar,
Age : Major, Occu.: Agril.,
4. Ramprabhu Damodhar Kopnar,
Age : Major, Occu.: Agril.,
- R/o.: Dombalwadi, Tq. Karjat,
District : Ahmednagar. RESPONDENTS.

WITH

FIRST APPEAL STAMP NO.5211/2016

1. The Executive Engineer,
Kukadi Distribution & Construction
Division, Kolwadi, Tq. Karjat. ... APPLICANT

VERSUS

1. The State of maharashtra,
(Copy to be served on Got. Pleader
High Court of Bombay Benach at
Aurangabad.)

2. Arjun Rama Belgal,
Age : Major, Occu.: Agril.,

3. Rahibai Santram Dombale,
Age : Major, Occu.: Agril.,

4. Gangubai Santram Dombale,
Age : Major, Occu.: Agril.,

R/o.: Dombalwadi, Tq. Karjat,
District : Ahmednagar. ...

RESPONDENTS.

WITH

FIRST APPEAL STAMP NO.5208/2016

1. The Executive Engineer,
Kukadi Distribution & Construction
Division, Kolwadi, Tq. Karjat. ...

APPLICANT

VERSUS

1. The State of maharashtra,
(Copy to be served on Got. Pleader
High Court of Bombay Bench at
Aurangabad.)

2. Ajinath Khandu Lokhande,
Age : Major, Occu.: Agril.,
Through G.P.A.
Namdeo Ajinath Lokhande,
Age : 40 years, Occu.: Agril.,

3. Tukaram Khandu Lokhande,
Age : Major, Occu.: Agril.,

R/o.: Dombalwadi, Tq. Karjat,
District : Ahmednagar. ...

RESPONDENTS.

WITH

FIRST APPEAL STAMP NO.5075/2016

1. The Executive Engineer,

Kukadi Distribution & Construction
Division, Kolwadi, Tq. Karjat.

... APPLICANT

VERSUS

1. The State of maharashtra,
(Copy to be served on Got. Pleader
High Court of Bombay Bench at
Aurangabad.)
2. Badshah Rahman Bagwan,
Age : 55 years, Occu.: Agril.,
3. Hamjekhan Rahman Bagwan,
(Deceased through his L.Rs.)
- 3-i). Smt. Ashabee Hamjekhan Bagwan,
Age : Major, Occu.: Agril.,
- 3-ii) Shabbir Hamjekhan Bagwan,
Age : Major, Occu.: Agril.,
4. Jafar Rahman Bagwan,
(Deceased through his L.Rs.)
- 4-i) Smt. Mumtaj Jafar Bagwan,
Age : 55 years, Occu.: Household,
- 4-ii) Javed Jafar Bagwan,
Age : Major, Occu.: Agril.,
5. Imam Rahman Bagwan,
Age : 53 years, Occu.: Agril.,
6. Ajamer Rahman Bagwan,
Age : 50 years, Occu.: Agril.,
7. Gulab Rahman Bagwan,
Age : 62 years, Occu.: Agril.,

Respondent no.2 Special G.P.A. of
respondent nos. 3 to 7.

R/o.: Malangi, Tq. Karjat,
District : Ahmednagar.

... RESPONDENTS.

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Advocate for Applicants : Mr. Rajale Gulab B.

AGP for Respondent no.1: Mr. S. P. Sonpawale.

Advocate for Respondents No.2 to 4 : Mr. V. D. Hon, Senior Adv., I/b Mr.
Mr. A. V. Hon.

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CORAM : PR. BORA, J.**DATE : 05-07-2017.****ORAL JUDGMENT :**

1) Shri Rajale, learned Counsel appearing for the acquiring body assailed the impugned common judgment and award on various grounds. Learned Counsel submitted that the Reference Court has unreasonably enhanced the amount of compensation by determining the market value of the acquired lands at the rate of Rs.50,000/- per Hecter though there was no sufficient evidence. Learned Counsel further submitted that the SLAO had assessed the market value at the rate of Rs.24,000/- per Hecter and that was the correct market value of the acquired lands. Learned Counsel submitted that the sale instances which are relied upon by the Reference Court are not of comparable lands and in such circumstances, the impugned common judgment and award deserves to be set aside. Learned Counsel further submitted that the Reference Court has further erred in awarding interest under Section 34 of the Land Acquisition Act from the date of possession. Learned Counsel relying on the Full Bench Judgment of this court in case of State of Maharashtra Vs. Kailas Shiva Rangari reported in 2016(4) ALL MR 513, submitted that the Reference Court could not have awarded interest under Section 34 of the Act from the date of possession. He, therefore, prayed for allowing the appeal.

2) Shri Hon, learned Senior Counsel resisted the submissions made by the learned Counsel appearing for the acquiring body. The

learned Senior Counsel inviting my attention to the discussion made by the learned Reference Court in regard to the sale instances brought on record by the claimants submitted that Reference Court has rightly analysed the said evidence and on the basis of the same, has determined the market value of acquired lands at the rate of Rs.50,000/- per Hecter. Learned Senior Counsel submitted that, in fact, claimants were expecting some more enhancement in the compensation than awarded by the Reference Court. Learned Counsel submitted that, no interference is required in the impugned judgment and award so far as it relate to determination of market value. Learned Senior Counsel, however, fairly conceded that, in view of the Full Bench Judgment in case of Kailas Shiva Rangari (supra), interest under Section 34 of the Act would be payable only from the date of award. Learned Counsel therefore, prayed for passing appropriate orders in that regard.

3) I have carefully gone through the common judgment and award delivered by the Reference Court. It does not appear to me that the Reference Court has enhanced the compensation unreasonably. The sale instances which were produced on record are duly considered by the Reference Court. On the contrary by considering all relevant circumstances, the Reference Court has made appropriate deductions while determining the market value of the subject lands on the basis of said sale instances. After having gone through the entire material on record, I do not find any reason to cause interference in the market value determined by Reference Court of the acquired lands.

4) However, there is substance in another objection raised by the acquiring body as about the grant of interest under Section 34 of the Act. As mentioned herein above, the learned Senior Counsel was fair enough in submitting that such interest could not have been awarded by the Reference Court. To that extent the impugned judgment, needs to

be modified. For the reasons stated above, the following order is passed.

ORDER

- 1) The impugned common judgment and award stands modified only to the extent of interest granted under Section 34 of the Act from the date of possession. The interest under Section 34 of the Act is made payable from the date of award. Award be accordingly modified.
- 2) The appeals stand partly allowed in the aforesaid terms.

(P. R. BORA)
JUDGE