IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

(Group A of 22 First Appeals)

FIRST APPEAL NO.1858 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Lalitabai w/o. Shrihari Mundhe,
Age: 55 years, Occu.:Agril & H.H.,
R/o. Wanjarwadi, TQ. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1859 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Parmeshwar s/o. Bhimrao Mundhe,
Age: 45 years, Occu.:Agril & H.H.
R/o. Wanjarwadi, Tq.Renapur,
Dist. Latur ...Respondent
(Ori. Claimant)

WITH
FIRST APPEAL NO.1860 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur
...Appellants
(Ori. Respondents)

VERSUS

Balasaheb s/o. Bhimrao Mundhe,
Age:50 years, Occu.:Agril,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur. ...Respondent
(Ori. Claimant)

WITH
FIRST APPEAL NO.1861 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector),
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur
...Appellants
(Ori. Respondents)

VERSUS

Suryakant s/o. Bhaurao Mundhe,
Age:40 years, Occu.:Agril,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur ...Respondent
(Ori. Claimant)

WITH
FIRST APPEAL NO.1862 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur
...Appellants
(Ori. Respondents)

VERSUS

Vishnu s/o. Dnyanoba Ghuge,
Age:32 years, Occu.:Agril.
& Service,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur ...Respondent
(Ori. Claimant)

WITH
FIRST APPEAL NO.1863 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Janardhan s/o. Murlidhar Holambe,
Age:22 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1864 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Meenabai w/o. Dadarao Alapure,
Age: 42 years, Occu.:Agril & H.H.
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1865 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Mahadeo s/o. Vithal Mundhe,
Age: 40 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1866 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Amol s/o. Balasaheb Mundhe,
Age: 22 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1867 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition

Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

[Udhav s/o. Vithal Mundhe
Died His L.Rs. As under]
Padminbai w/o. Udhav Mundhe,
Age: 30 years, Occu.:Agril. & H.H.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1868 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Dattatraya s/o. Harishchandra Takras,
Age: 26 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1869 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)

Division, Latur,

3. The Special Land Acquisition Officer, M.I.W. Latur

...Appellants (Ori. Respondents)

VERSUS

Balkishan s/o. Dnyanoba Chilme,
Age: 29 years, Occu.:Agril,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent (Ori. Claimant)**

WITH
FIRST APPEAL NO.1870 OF 2016

1. The State of Maharashtra through The Collector, Latur,

2. The Executive Engineer, M.I., (Local Sector) Division, Latur,

3. The Special Land Acquisition Officer, M.I.W. Latur

...Appellants (Ori. Respondents)

VERSUS

Dattatraya s/o. Bhaurao Mundhe,
Age: 35 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent (Ori. Claimant)**

WITH
FIRST APPEAL NO.1871 OF 2016

1. The State of Maharashtra through The Collector, Latur,

2. The Executive Engineer,

M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Anant s/o. Bhaurao Mundhe,
Age: 38 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1872 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

1. Deelip s/o. Rangnath Mundhe
Age: 45 years,
2. Amol S/o. Deelip Mundhe,
Age: 19 years,
Both Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondents**
(Ori. Claimants)

WITH
FIRST APPEAL NO.1873 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Madhukar s/o. Trimbak Mundhe,
Age: 50 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1874 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Balasaheb s/o. Bhaurao Mundhe,
Age: 30 years, Occu.:Agril,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1875 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Bhaurao s/o. Mukinda Mundhe,
Age:80 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1876 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Sugriv s/o. Rambhau Nagargoje,
Age: 45 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq.Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH

FIRST APPEAL NO.1877 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Vithal s/o. Rama Mundhe,
Age: 60 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1878 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Thakubai Babarao Alapure,
Age:50 years, Occu.:Agril & H.H.
R/o. Wanjarwadi, Tq.Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH

FIRST APPEAL NO.1879 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., (Local Sector)
Division, Latur,
(Group A o
3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Lahu s/o. Dadarao Karad,
Age: 29 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH

(Group B of 8 First Appeals)

FIRST APPEAL NO.1547 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Uttam s/o. Namdeo Mundhe,
Age:55 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**

(Ori. Claimant)

WITH
FIRST APPEAL NO.1548 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Sakhubai w/o. Dnyanoba Ghuge,
Age: 60 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1549 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Dnyanoba s/o. Mukundrao Rakh,
Age:40 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1550 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Suryakant s/o. Waman Mundhe,
Age: 30 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1551 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Gangadhar Abarao Mundhe,
Age: 50 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1552 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Lalitabai @ Kawitabai
w/o. Shrihari Mundhe,
Age: 55 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1553 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Vithal s/o. Rama Mundhe,
Age:50 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

WITH
FIRST APPEAL NO.1554 OF 2016

1. The State of Maharashtra
through The Collector, Latur,

2. The Executive Engineer,
M.I., Latur,

3. The Special Land Acquisition
Officer, M.I.W. Latur

...Appellants
(Ori. Respondents)

VERSUS

Parvatibai w/o. Vithal Mundhe,
Age:55 years, Occu.:Agril.,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur **...Respondent**
(Ori. Claimant)

Mr.S.P.Sonpawale and Mr.S.P.Tiwari,AGPs for Appellant-State in respective matters ;

Mr.V.D.Gunale, Advocate for Respondents-claimants;

CORAM : P.R.BORA,J.

RESERVED ON: 13th October,2017
PRONOUNCED ON: 21st December, 2017

JUDGMENT:

1) First Appeal No.1858/2016 to FIRST APPEAL No.1879/2016 (total 22 appeals) are filed

by the State against common judgment and order passed by Ad hoc Additional District Judge-4, Latur in LAR No.62/2005 to 66/2005, 69/2005, 70/2005, 126/2005, 134/2005, 136/2005, 137/2005 139/2005 to 141/2005, 145/2005 to 147/2005, 150/2005,151/2005,180/2005,220/2005 and 314/2006, decided on 3rd July, 2007; whereas First Appeal No.1547/2016 to First Appeal No.1554/2016 (Total 8 appeals) are filed by the State against the common judgment and order passed by the same Ad hoc Additional District Judge-4, Latur in LAR No. 67/2005, 68/2005, 71/2005 to 75/2005 and LAR 392/2006 decided on 3rd July, 2007.

2) The 4th Additional Ad hoc District Judge-4, is herein after referred to as the Reference Court and the respondents in all these matters are referred to as the claimants.

3) Since all these matters pertain to the acquisition made for construction of Vanjarwadi percolation tank, common arguments were advanced

in all these matters by learned AGP appearing for the State and the learned Counsel appearing for the claimants. I, therefore, deem it appropriate to decide all these appeals by a common reasoning.

4) Notification under Section 4 of the Land Acquisition Act, 1894 (herein after referred to as the Act) in so far as the lands involved in First Appeal Nos.1858/2016 to 1879/2016 are concerned was published in the official gazette on 3.4.2001; whereas the lands, which are the subject matters in First Appeal No.1547/2016 to 1554/2016 are concerned, Section 4 notification in that regard was published on 6th July, 2002. Award under Section 11 of the Act came to be published in so far as the first group of the appeals is concerned on 12.2.2004 and in relation to the lands involved in the second group of appeals, same was published on 10th March, 2004. The Land Acquisition Officer determined the market value in all these matters for the lands

falling in group 1 @ Rs.72,200/- per hectare and for the lands falling in group 2 @ Rs.84,000/- per hectare and accordingly the amount of compensation was offered to the claimants.

5) Dissatisfied with the amount of compensation so offered, the claimants filed the applications under Section 18 of the Act, seeking enhancement in the amount of compensation to Collector, Latur, who in turn, forwarded all said applications for adjudication the Reference Court. In the application adjudicated by the Reference Court, the claimants had claimed the market value of the acquired lands @ Rs. 5,000/- per Are. In order to substantiate their claims, the claimants adduced their own oral evidence and placed on record certain sale instances. No oral or documentary evidence was adduced on behalf of the State. The State relied upon the list of the sale instances considered by the Land Acquisition Officer. The learned Reference Court, after having assessed the oral and documentary evidence

placed on record by the parties, determined the market value of the acquired lands @ Rs. 2,750/- per Are and accordingly enhanced the amount of compensation. The Reference Court also granted the statutory benefits and interest as envisaged under the provisions of the Act. Aggrieved by, the State has preferred the present appeals.

6) Shri S.P.Sonpawale and Shri S.P.Tiwari, learned AGPs, appearing for the State in the respective matters, assailed the impugned judgments and Awards on various grounds. The learned AGP submitted that without any cogent and sufficient evidence on record, the Reference Court has unreasonably enhanced the amount of compensation. The learned AGP further submitted that the market value of the acquired lands could not have been determined by the Reference Court on the basis of the sale instances brought on record by the claimants since none of the said sale instances can be said to be of the land comparable with the acquired lands. The learned

AGP further submitted that on the contrary, the Land Acquisition Officer, before making the award, has physically visited the acquired lands and has taken into account several sale instances of the comparable lands occurred in the relevant period.

7) Learned AGP further submitted that, the Reference Court has erred in relying upon the sale instances pertaining to small portion of lands while determining the market value of the acquired lands. The learned AGP further submitted that the sale instances relied upon by the learned Reference Court were also not from the same village from where the subject lands were acquired but were of the adjoining villages.

8) The learned AGP further submitted that the compensation as was awarded by the Land Acquisition Officer was just and adequate compensation and the learned Reference Court could not have caused any interference in the award so passed. The learned AGP, therefore,

prayed for setting aside the impugned judgments and awards and to confirm the awards passed by the Land Acquisition Officer.

9) The learned AGP further submitted that in the common judgment and order passed in LAR No.62/2005 with connected LARs, the learned Reference Court has wrongly awarded the interest under Section 34 of the Act from the date of Section 4 notification. The learned AGP submitted that in view of the Full Bench Judgment of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari – 2016 (3) Mh.L.J. 457***, such interest can be awarded only from the date of the Award under section 11 of the Act. The learned AGP submitted that to the said extent, the impugned awards certainly require to be modified.

10) Shri V.D.Gunale, learned Counsel appearing for the respondents – claimants in all these matters, supported the impugned judgments

and awards. The learned Counsel submitted that, in fact, the amount of compensation, as has been enhanced by the learned Reference Court, is also not to the satisfaction of the claimants, but the claimants have under distress accepted the decision rendered by the Reference Court. The learned Counsel further submitted that the claimants had brought on record the sale instances of the comparable lands and accordingly the compensation has been determined by the learned Reference Court. The learned Counsel submitted that since the Reference Court has not determined the market value of the acquired lands unreasonably, no interference is warranted in the impugned judgments and awards. The learned Counsel, therefore, prayed for dismissal of the appeals.

11) Learned Counsel Shri Gunale was fair in submitting that in the common judgments and Awards wherein the Reference Court has awarded the interest under Section 34 of the Act from the

date of Section 4 notification, may be modified in view of the Full Bench judgment of this Court in the case of Shiva Rangari (cited supra) and the claimants may not have any objection for such modification.

12) I have carefully considered the submissions made by the learned AGP on behalf of the State and by Shri V.D. Gunale for the claimants. I have perused both the common Judgments and Awards which are impugned in the present appeals and the evidence adduced in the matters. It is not in dispute that the State did not adduce any oral evidence nor any sale instance i.e. certified copy of any such sale deed was placed on record by the State. As against it, the claimants adduced their oral evidence in order to substantiate their claims. The claimants did also place on record five sale instances. It has to be stated that in both the common Judgments and Awards same sale instances were relied upon by the claimants and the same

are considered by the Reference Court. In view of the fact that, there was no oral or documentary evidence on behalf of the State, the only option before the Reference Court was to determine the market value on the basis of the sale instances brought on record by the claimants by examining whether they were of the comparable lands and could have been relied upon for determining the market value of the acquired lands.

13) The sale instances which were placed on record by the claimants are at Exhibits 25 to 29. The sale instances at Exhibit 25 pertains to the land Gut No.118 situated at village Davangaon. 5 Ares land was sold by vendor Bhagwat Nagargoje to Santosh Nagargoje for the consideration of Rs.23,000/- and the sale deed was registered on 07-09-2000. The aforesaid land was, thus, sold @ Rs.4,600/- per Are.

14) The land which is the subject matter of

Exhibit 26 was admeasuring 11 Ares out of Gut No.109 situated at village Davangaon and was sold by one Shri Baliram Nagargoje to Mahesh Chintalkar for the price of Rs.33,000/- vide registered sale deed executed on 01-12-2000. The said land was thus sold @ Rs.3000/- per Are.

15) Exhibit 27 pertains to sale of 11 Ares land situated at village Davangaon executed on 13-10-2000 for the consideration of Rs.33,000/- i.e. @ Rs.3000/- per Are. The land which was the subject matter of Exhibit 28 is situated at Bitargaon and was admeasuring 21 Ares. It was sold by registered sale deed executed on 19-1-2000 for the value of Rs.60,000/- i.e. @ Rs.2,854/- per Are. The land which was the subject matter of Exhibit 29 was admeasuring 11 Ares situated at village Bitargaon and was sold by the registered sale deed executed on 08-1-2001 for the consideration of Rs.50,000/-. Thus, the said land was sold @ Rs.4545/- per Are.

16) Perusal of the impugned Awards shows

that the Reference Court has disagreed with the market rate determined by the Land Acquisition Officer of the acquired lands on various grounds. As has been observed by the Reference Court, though there were certain sale instances available with the Land Acquisition officer, on the basis of which the market value of the acquired lands could have been adequately determined, the Land Acquisition officer has preferred to determine the market value of the acquired lands on the basis of the ready reckoner rates prevailing on the date of issuance of the notification under Section 4 of the Act.

17) I have gone through the Awards passed by the Land Acquisition Officer. The Awards reveal that the Land Acquisition Officer divided the acquired lands in two groups. It further reveals that at the relevant time, the ready reckoner rates of the lands categorized to be included in Group-A was Rs.72,200/- per hectares, whereas for the lands falling in category Group-B was Rs.

84,000/- per hectare. The land Acquisition Officer, therefore, determined the market value of the said lands respectively @ Rs.72,200/- per hectare and Rs. 84,000/- per hectare. The Reference Court has rightly disagreed with the Land Acquisition officer. While determining the market rates, the Reference Court has though considered the sale instances brought on record by the claimants, it is discernible that it has not blindly accepted the said market rates at which, the concerned agricultural lands, which were the subject matters of the said sale instances, were sold. The Reference Court has carried out some guess work and has determined the market value of the acquired lands @ Rs.2,750/- per Are.

18) The impugned Awards reveal that though the claimants had in some matters claimed their agricultural lands to be perennially irrigated, the Reference Court, on the basis of the evidence on record, has rejected the said contention

observing that though the existence of well as shown by the claimants in the said lands, no further evidence was produced by the said claimants to prove that well water being perennially used and that cash crops were being taken in the said lands. Similarly, though in majority of the matters the claimants had claimed separate compensation towards the trees, the said contention has also been rejected by the Reference Court for lack of sufficient evidence brought on record by the claimants. It, therefore, cannot be said that the Reference Court placed implicit reliance on the evidence produced by the claimants. On the contrary, what reveals from the impugned judgments is proper application of mind by the Reference Court in determining the market value of the acquired lands.

19) It was sought to be canvassed by the learned AGP that the sale instances, which were considered by the Reference Court were of the

adjacent village and not of the village from where the subject lands were acquired. In view of the settled legal position, the argument so made by the learned AGP is liable to be turned down. Moreover, in the award itself it has come on record and the learned Reference Court has also reiterated the said fact in the impugned awards that the village map (Exhibit-54) clearly shows that Davangaon, Vanjarwadi and Bitargaon are the villages adjacent to each other and their boundaries touch to each other. In the circumstances, the Reference Court was fully justified in not making any discrimination between the land owners of village Vanjarwadi to pay something more and less to the land owners of village Bitargaon than the price determined of the lands situated at village Vanjarwadi.

20) Further, if it is the case of the State that the sale instances, which were considered by the learned Reference Court were not of comparable lands, the State has to explain as to

why it did not adduce the necessary evidence either by examining the relevant witnesses or at least by placing on record the certified copies of the sale instances of such lands, which according to the State could have been held comparable to the acquired lands. Admittedly, the State has not adduced any oral or documentary evidence.

21) After having considered the entire evidence on record, it does not appear to me that the Reference Court has committed any error in determining the market value of the acquired lands @ Rs.2,750/- per Are. It has to be further stated that even otherwise, in view of the recent decision taken by the Government vide the Government Resolution No.संकीर्ण–२०१४/प्र.क्र.४१/भाग–१/अ–४ दि. ०३ नोव्हेंबर, २०१६ with Government Corrigendum dtd.23rd February, 2017 to the said Government Resolution issued by Revenue & Forest Department, Government of Maharashtra, Mantralaya, Mumbai, the State should not have prosecuted these appeals further since the market rates of the subject lands,

determined by the Reference Court are not exceeding the limit, as prescribed in the said Government Resolution. As per the said Government Resolution the State has decided not to file appeals and if the appeals are already filed, not to prosecute the said appeals further, in the cases wherein the market rate as determined by the Reference Court is not more than four times of the ready reckoner rates prevailing of the said land on the date of issuance of Section 4 notification or on the date of taking the possession. I reiterate that the ready reckoner rates of the lands, which are the subject matter in the present appeals were respectively Rs.720/- and Rs.840/- per Are. The market rate determined by the learned Reference Court to the tune of Rs.2,750/- is thus definitely within the said limit.

22) There is, however, substance in the objection raised by the learned AGP that in the group of 22 appeals, the Reference Court has awarded interest under Section 34 of the Act from

the date of Section 4 notification. In view of the Full Bench judgment of this Court in the case of *State of Maharashtra Vs. Kailash Shiva Rangari,* - (cited supra), such interest can only be paid from the date of award under Section 11 of the Act. As I noted earlier, learned Counsel Shri Gunale was fair enough in submitting that in view of the Full Bench Judgment of this Court, referred to above, the impugned Awards are liable to be modified to that extent. Thus, the impugned Awards need to be modified only to the said extent.

23) For the reasons stated above, following order is passed, -

ORDER

i) First Appeal Nos.1858/2016 to 1879/2016 are partly allowed without any order as to costs. The Awards impugned in the said appeals stand modified to the extent that the interest under Section 34 of the Act shall be payable

on the amount of compensation from the date of award under section 11 of the Act. The Awards be modified accordingly;

ii) First Appeal Nos.1547/2016 to 1554/2016 stand dismissed without any order as to costs. The Awards be modified accordingly.,

iii) Pending civil applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

bdv/
fldr 19.12.2017