

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

13 FIRST APPEAL NO. 3812 OF 2016

. The Executive Engineer,
Beed Minor Irrigation Division,
Head Quarter at Ambajogai,
Dist. Beed.

2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Govardhan Bhagwanrao Karpe
Age : 77 Yrs, Occu : Agri
R/o. Jawalban, Tq. Kaij,
Dist. Beed

2. Deepak Govardhan Karpe
Age : 52 yrs, Occu : Agri,
R/o. As above

3. Sunil Govardhan Karpe,
Age : 47 yrs, Occu : Agri,
R/o. As above

4. Anil Govardhan Karpe
Age : 42 yrs, Occu : Agri,
R/o. As above

5. Sau. Sadhna Deepak Karpe,
Age : 47 yrs, Occu : Household,
R/o. As above

.. Respondents
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil

Advocate for Respondents No.1 to 5: Shri. T.G. Gaikwad

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WITH

FIRST APPEAL NO.3813 OF 2016

1. The Executive Engineer,
Beed Minor Irrigation Division, Head Quarter
at Ambajogai, Dist. Beed.

2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

Ganpati Pandurang Karpe (Died)
His L.R's

1. Parsuram Ganpati Karpe
Age : 42 years, Occu : Agri,
R/o. As above.
2. Vishnu Pandurang Karpe
Age : 72 yrs, Occu : Agri,
Both R/o. Jawalban, Tal. Kaij,
Dist. Beed.

.. RESPONDENTS
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 & 2: Shri. T.G. Gaikwad

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WITH

FIRST APPEAL NO.3814 OF 2016

1. The Executive Engineer,
Beed Minor Irrigation Division, Head Quarter
at Ambajogai, Dist. Beed.

2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Laxman Bhagwan Randve
Age : 62 years, Occu : Agri,
R/o. Jawalban, Tq. Kaij, Dist. Beed.
2. Haribhau Bhagwan Randve
Age : 57 yrs, Occu : Agri,
R/o. As above.
3. Shriram Babasaheb Randve
Age : 47 yrs, Occu : Agri,
R/o. As above.
4. Arun Babasaheb Randve
Age : 42 yrs, Occu : Agri
R/o. As above.

.. RESPONDENTS
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 to 4 : Shri. T.G. Gaikwad

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**WITH
FIRST APPEAL NO.3815 OF 2016**

1. The Executive Engineer,
Beed Minor Irrigation Division, Head Quarter
at Ambajogai, Dist. Beed.
2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

Kalawati Sopan Jogdand
Age : 72 yrs, Occu : Agri,
R/o. Jawalban, Tal. Kaij,
Dist. Beed

.. RESPONDENTS
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil

Advocate for Respondents : Shri. T.G. Gaikwad

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**WITH
FIRST APPEAL NO.3816 OF 2016**

1. The Executive Engineer,
Beed Minor Irrigation Division,
Head Quarter at Ambajogai, Dist. Beed.

2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Dattu Shivaji Karpe
Age : 47 yrs, Occu : Agri,
R/o. Jawalban, Tal. Kaij,
Dist. Beed
2. Shasherao Bhanudas Karpe
Age : Major, Occu : Agri
R/o. As above
3. Balasaheb Bhanudas Karpe
Age : Major, Occu : Agri
R/o. As above

.. RESPONDENTS
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 to 3 : Shri. T.G. Gaikwad

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**WITH
FIRST APPEAL NO.3817 OF 2016**

1. The Executive Engineer,
Beed Minor Irrigation Division,
Head Quarter at Ambajogai, Dist. Beed.

2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Arun Haridas Karpe
Age : 52 yrs, Occu : Agri,
R/o. Jawalban, Tq. Kaij, Dist. Beed
2. Uttreshwar Haridas Karpe
Age : 37 yrs, Occu : Agri,
R/o. As above.
3. Sau. Ashabai Shriram Randhve
Age : Major, Occu : Household, R/o. As above
4. Sau. Kamalbai Kashinath Mane
Age : Major, Occu : Household, R/o. As above
5. Sau. Parbhawati Govardhan Thombare
Age : Major, Occu : Household, R/o. As above
6. Sau. Ujanbai Annasaheb Shinde
Age : Major, Occu : Household, R/o. As above

..RESPONDENTS
(Ori. Claimants)

...

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 to 6 : Shri. T.G. Gaikwad

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**WITH
FIRST APPEAL NO.3818 OF 2016**

1. The Executive Engineer,
Beed Minor Irrigation Division, Head Quarter
at Ambajogai, Dist. Beed.
2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Dnyanba Dattu Karpe
Age : 77 years, Occu : Agri,
R/o. Jawalban, Tq. Kaij, Dist. Beed
2. Subhash Dattu Karpe
Age : 57 years, Occu : Agri,
R/o. As above

.. RESPONDENTS
(Ori. Claimants)

.....

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 & 2 : Shri. T.G. Gaikwad

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**WITH
FIRST APPEAL NO.3819 OF 2016**

1. The Executive Engineer,
Beed Minor Irrigation Division, Head Quarter
at Ambajogai, Dist. Beed.
2. The State of Maharashtra,
Through the Collector, Beed.

.. APPELLANTS
(Ori. Respd.)

VERSUS

1. Ramdas Shankar Gore
Age : 77 years, Occu : Agri,
R/o. Jawalban, Tq. Kaij, Dist. Beed
2. Rajabhau Shankar Gore
Age : 72 years, Occu : Agri,
R/o. As above
3. Suresh Shankar Gore
Age : 50 years, Occu : Agri,
R/o. As above

.. RESPONDENTS
(Orig. Claimants)

.....

Advocate for Appellant : Shri. R.C. Patil
Advocate for Respondents No.1 to 3 : Shri. T.G. Gaikwad

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CORAM : P.R. BORA, J.
Dated: July 24, 2017

ORAL JUDGMENT :-

1. Heard finally with consent of the learned Counsel appearing for the parties.
2. Shri. R.C. Patil, the learned Counsel appearing for the acquiring body i.e. appellant in all these appeals submitted that, in view of the judgment delivered by this Court in some of the connected matters confirming the market value as has been determined by the Reference Court to the tune of Rs.1500/- per *Are* for non-irrigated land and in the same proportion for irrigated and semi - irrigated lands so also in view of the fact that, many of the matters are settled in Lok Adalat, wherein also the market value of the land has been given at the same rate, the acquiring body has decided not to press the said issue in the present appeals. The learned Counsel submitted that, the challenge to the impugned Judgment is now restricted only to the extent of grant of interest by the Reference Court under Section 34 of the Land Acquisition Act (hereinafter referred to as the 'Act') from the date of possession. The learned Counsel 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** the interest cannot be made payable under Section 34 of the Act from the date of possession. The learned Counsel submitted that, in such circumstances to that extent the impugned award needs to be modified.

3. Shri. T.G. Gaikwad, learned Counsel appearing for the respondents i.e. original claimants in all these matters submitted that, in the matters which are settled before the Lok Adalat, the order passed by the Reference Court has been confirmed as it is and as such the matters which are settled before the Lok Adalat, the claimants therein are entitled for the interest under Section 34 of the Act as has been awarded by the Reference Court. The learned Counsel submitted that, in such circumstances, the present respondents/original claimants shall not be deprived of the interest as has been awarded by the Reference Court.

4. I have carefully considered the submissions made on behalf of the learned Counsel appearing for the parties. In view of the fact that, now the challenge is restricted only to the point of interest, I need not to indulge in making any more discussion as about the market value determined by the Reference Court. In view of the full bench Judgment of this Court in case of **State of Maharashtra Vs. Kailash Shiva Rangari** (supra) now there remains no dispute that, the interest under Section 34 of the Act can only be awarded from the date of Award under Section 11 of the Act and cannot be made payable from the date of possession or from the date of notification under Section 4 of the Act. In view of the law laid down by the full bench of this Court, the impugned order to the extent of awarding the interest under Section 34 of the Act from the date of possession, therefore, needs to be modified. Though it was sought to be canvassed by Shri. Gaikwad, learned Counsel appearing for the claimants that in Lok Adalat no such exception is made, I am not inclined to accept his submission. When the legal position is brought to notice of this Court the same has to be followed and the said illegality cannot be continued by settlement or by the consent of the parties. For the reasons

stated above, the following order is passed.

ORDER

i) The impugned Judgment and Award so far as it relates to grant of interest under Section 34 of the Act stand modified and the interest under Section 34 of the Act is made payable from the date of Award under Section 11 of the Act. Save and except the aforesaid modification, the impugned Award is maintained as it is.

ii) The appeals stand partly allowed in the aforesaid term.

iii) Pending civil application, if any, stands disposed of.

(P.R. BORA, J.)