

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

1 FIRST APPEAL NO. 4083 OF 2016

Kamlakar S/o Babasaheb Late
Age : 48 years, Occu : Agri,
R/o. Kedarwakdi, Tal. Mantha,
Dist. Jalna

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2	:	Shri. S.P. Sonpawale
Advocate for Respondent No.3	:	Shri. B. R. Surwase

...

WITH

FIRST APPEAL NO. 4084 OF 2016

Ankush S/o Babasaheb Kavhale
Age : Major, Occu : Agri,
R/o. Kedarwakdi, Tal. Mantha,
Dist. Jalna

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.

3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. B. R. Surwase

...

WITH

FIRST APPEAL NO. 4085 OF 2016

Shivaji S/o Babasaheb Kavhale,
Age : Major, Occu : Agri,
R/o. Kedarwakdi, Tal. Mantha,
Dist. Jalna

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.

2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.

3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. B. R. Surwase

...

WITH

FIRST APPEAL NO. 4086 OF 2016

Abasaheb S/o Maroti Kavhale,
Age : 54 years, Occu : Agri,

R/o. Kedarwakdi, Tal. Mantha,
Dist. Jalna

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. S. G. Bhalerao

...

WITH

FIRST APPEAL NO. 4087 OF 2016

Abasaheb S/o Bhanaji Kavhale (Died),
Through his Legal Heirs

1. Sanjawanabai W/o Abasaheb Kavhale,
Age : 60 years, Occu. Agri.
R/o. Kedarwadi, Tq. Mantha, Dist. Jalna.
2. Rajebhau S/o Abasaheb Kavhale
Age : 32 years, Occu. Agri.
R/o. As above.
3. Santosh S/o Abasaheb Kavhale
Age : 30 years, Occu. Agri.
R/o. As above.
4. Raosaheb S/o Bhanaji Kavhale
Age : 42 years, Occu. Agri.
R/o. As above.

.. Appellants
(Orig. Claimants)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas.B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. S. G. Bhalerao

...

WITH

FIRST APPEAL NO. 4088 OF 2016

Pandit S/o Bapurao Late,
Age : Major yrs., Occu. Agri.,
R/o. Kedarwakdi, Tq. Mantha,
Dist. Jalna.

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

...

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. B. R. Surwase

...

WITH

FIRST APPEAL NO. 4089 OF 2016

Bhagubai W/o Babasaheb Kavhale (Died)
Through L.Rs.

1. Babasaheb S/o Bapurao Kavhale (Deleted)
Age : 85 years, occu. Agriculture,
R/o. Kedarwadi, Tq. Mantha,
Dist. Jalna.
2. Laxman S/o Babasaheb Kavhale
Age : 50 years, occu. Agriculture,
R/o. As above.
3. Shivaji S/o Babasaheb Kavhale
Age : 45 years, occu. Agriculture,
R/o. Kedarwadi, Tq. Mantha,
Dist. Jalna.
4. Ankush S/o Babasaheb Kavhale
Age : 42 years, Occu. Agriculture,
R/o. Kedarwadi, Tq. Mantha,
Dist. Jalna.

.. Appellants
(Orig. Claimants)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. S. G. Bhalerao

...

...

WITH

FIRST APPEAL NO. 4090 OF 2016

Bhagwant S/o Limbaji Shinde,
Age : Major yrs., Occu. Agri.,
R/o. Kedarwakdi, Tq. Mantha,
Dist. Jalna.

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.
2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.
3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2 :		Shri. S.P. Sonpawale
Advocate for Respondent No.3 :		Shri. S. G. Bhalerao
...		

WITH

FIRST APPEAL NO. 4091 OF 2016

1. Kushabai W/o Panditrao Late,
Age : 65 years, Occu. Agri.
 2. Madhukar S/o Panditrao Late,
Age : 35 years, Occu. Agri.,
- Both R/o. Kedarwakdi, Tq. Mantha,
Dist. Jalna.

.. Appellants
(Orig. Claimants)

VERSUS

1. The State of Maharashtra

Through Collector, Jalna.

2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.

3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

Advocate for Appellant	:	Shri. Kailas B. Jadhav
AGP for Respondents No.1 & 2	:	Shri. S.P. Sonpawale
Advocate for Respondent No.3	:	Shri. B. R. Surwase

...

WITH

FIRST APPEAL NO. 4092 OF 2016

Arun S/o Nanabhau Kavhale,
Age : Major yrs., Occu. Agri.,
R/o. Kedarwakdi, Tq. Mantha,
Dist. Jalna.

.. Appellant
(Orig. Claimant)

VERSUS

1. The State of Maharashtra
Through Collector, Jalna.

2. The Special Land Acquisition Officer,
Minor Irrigation Works, Jalna.

3. The Executive Engineer,
Nimna Dudhna Project, Selu,
Dist. Parbhani

.. Respondents

Advocate for Appellant	:	Mr Kailas B. Jadhav
AGP for Respondents No.1 & 2	:	Mr S.P. Sonpawale
Advocate for Respondent No.3	:	Mr B.R.Surwase & Mr S.D.Dhongade

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CORAM : P.R. BORA, J.
Dated: July 17, 2017

ORAL JUDGMENT :

1. All these appeals are arising out of the acquisition proceedings for Nimna Dudhana Project. When the present matters are taken up for hearing today, the learned Counsel appearing for the appellants tendered across the bar a copy of the common Judgment delivered by this Court (Coram: Shri. V.K. Jadhav, J.) on 3rd July, 2017 in First Appeal No.2733/2013 with the connected appeals. All those appeals were filed by the respective claimants seeking enhancement in the amount of compensation as was awarded to them by the Reference Court under Section 18 of the Land Acquisition Act (hereinafter referred to as the 'Act'). The learned Counsel submitted that, vide the aforesaid Judgment the High Court has enhanced the amount of compensation by determining the market value of the *Jirayat* lands at the rate of Rs.1500/- per *Are* and Rs.2,250/- per *Are* for the seasonally irrigated lands. The learned Counsel submitted that, in the aforesaid Judgment, this Court has relied upon the earlier Judgment delivered by this Court in First Appeal No.2740/2016 with the connected appeals. The learned Counsel pointed out that, said appeals were also arising out of the acquisition for Lower Dudhana Project and the lands involved in the said

matters were acquired from village Deola. The learned Counsel submitted that, since this Court in First Appeal No.2733/2013 has enhanced the compensation of the lands acquired from village Kedarwakadi at the rate of Rs.1500/- per *Are* for *jirayat* land, Rs.2250/- per *Are* for seasonally irrigated land and Rs.3000/- per *Are* for perennially irrigated lands, the same criteria may be applied in the present matters also and appeals be allowed to that extent.

2. Shri. Surwase, and Shri. Bhalerao, the learned Counsel appearing for the acquiring body have not disputed the correctness of the facts as stated by the learned Counsel appearing for the appellants. The learned Counsel conceded that, in the Judgment passed in First Appeal No.2740/2016 with the connected appeals arising out of the same acquisition proceedings, this Court has enhanced the amount of compensation as has been submitted by the learned Counsel for the appellant. The learned Counsel also submitted that, this Court (Coram: Shri. V.K. Jadhav, J) in the Judgment delivered on 03.07.2017 in First Appeal No.2733/2013 involving the lands from village Kedarwakdi acquired for the same Lower Dudhana Project has enhanced the amount of compensation by determining the market value of the acquired lands at the rate of Rs.1,500/- for non-irrigated lands, Rs.2250/- for seasonally irrigated and Rs.3000/- per *Are* for fully

irrigated lands. The learned Counsel submitted that in such circumstances appropriate orders may be passed. The learned Counsel however pointed out that, in all the awards, which are impugned in the present appeals, the reference Court has committed an error in awarding the interest under Section 34 of the Act from the date of notification under Section 4 of the Act instead of granting the same from the date of award under Section 11 of the Act. Both the Counsels have relied upon Judgment of the Full Bench of this Court in case of *State of Maharashtra vs. Kailash Shiva Rangari* reported in *2016(3) Mh.L.J. 457* to support their contention that, the Reference Court could not have awarded the interest under Section 34 of the Act from the date of Section-4 notification. The learned Counsel submitted that, to that extent the award needs modification while giving enhancement in the amount of compensation.

3. I have carefully considered the submissions advanced by the learned Counsel appearing for the parties. I have also perused the record in each of the aforesaid appeals. It is not in dispute that, the lands which are the subject matter in the present appeals were acquired for Lower Dudhana Project from village Kedarwakdi. In the Judgment delivered by this Court (Coram : Shri. V.K. Jadhav, J) in First Appeal No.2733/2013, the lands involved were from village Kedarwakdi were acquired vide the

same notification under Section 4 published in the Official Gazettes on 15.09.1994 and the Award under Section 11 of the Act in respect of the said lands was also passed on 31.03.1999. The lands which are the subject matter in the present appeals are also from village Kedarwakdi and were acquired for the same project vide the same notification and the award under Section 11 of the Act was the common award in respect of the lands which are involved in the present appeals and the lands which were subject matter in the appeals decided in First Appeal No.2733/2013. I, therefore, do not see any reason to take any contrary view. For the reasons recorded in the First Appeal No.2733/2013, the present appeals also deserve to be allowed on the similar lines and the amount of compensation needs to enhance by determining the market value of the acquired lands at the rate of Rs.1500/- per Are for non-irrigated lands, Rs.2250/- per Are for seasonally irrigated lands and Rs.3000/- per Are for fully irrigated lands.

4. The another issue which deserves to be considered is the interest awarded by the Reference Court under Section 34 of the Act. The Reference Court has committed an error while awarding the interest under Section 34 of the Act from the date of possession. The Full Bench of this Court in the case of **State of Maharashtra vs. Kailash Shiva Rangari** (supra) has held that, the award under Section 34 of the Act can

be awarded from the date of Award under Section 11 of the Act and not from the date of possession or from the date of notification under Section 4 of the Act. The impugned awards accordingly need to be modified. In the result, the following order.

ORDER

1) The market value of the lands involved in the present appeals shall be determined as per their categorization made by the SLAO in the Award under Section 11 of the Act, at the rate of Rs.1,500/- (Rs.One Thousand Five Hundred Only) per *Are* for non-irrigated lands, at the rate of Rs.2250/- (Rs.Two Thousand Two Hundred Fifty Only) per *Are* for semi-irrigated lands, at the rate of Rs.3,000/- (Rs.Three Thousand Only) per *Are* for perennially irrigated lands and at the rate of Rs.750/- (Rs.Seven Hundred Fifty Only) per *Are* for the *pot-kharaba* lands and the amount of compensation be enhanced accordingly.

2) The appellants are held entitled to the statutory benefits and interest on the enhanced amount of compensation in accordance with the provisions of the Act. Interest under Section 34 of the Act shall be paid from the date of Award under Section 11 of the Act even on the amount of compensation awarded by the Reference Court.

- 3) Appeals stand partly allowed in the aforesaid terms.
- 4) Pending Civil applications, if any, stand disposed of.

(P.R. BORA, J.)

ggp