

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

FIRST APPEAL NO. 1897 OF 2015

BABURAO SHRIRANG MASKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Appellant : Mr. V V Ingale
AGP for Respondents: Mr. B V Virdhe
Advocate for Respondent 3 : Mr A.G. Kanade

...
CORAM : V.K. JADHAV, J.
Dated: June 12, 2017
...

PER COURT :-

1. Heard learned counsel for respective parties.
2. This appeal is restricted to the extent of non-grant of interest under section 28 of the Land Acquisition Act.
3. The learned counsel relies on the judgment of the Apex Court in the case of **Major General Kapil Mehar and another Vs. Union of India and another** reported in ***2015(4) Mh.L.J. 40***. So also, the judgment of the Apex Court in the case of **Haridwar Development Authority Vs. Raghubir Singh** reported in ***AIR 2010 SC 1754***.

4. The learned Assistant Government Pleader submits that, awarding interest U/Sec.28 of the L.A. Act is a discretion of the Court. The fact that, no interest has been awarded would mean that said claim has been rejected. The learned AGP submits that, it is not the right of the claimant to claim interest and the same vests with the discretion of the Court. He relies on the judgment of the Apex Court in the case of **Union of India Vs. Pramod Gupta** reported in ***AIR 2005 SC 3708 (1)***.

5. I have considered the submissions canvassed by the learned counsel for respective parties.

6. This Court in First Appeal No.831 of 2014 with connected first appeals, and also in FA No.2450/2014, in a similar set of facts, by considering the case of **Haridwar Development Authority Vs. Raghubir Singh** referred to supra and **Union of India Vs. Pramod Gupta** referred supra has observed that, no exceptional circumstances have been brought on record to dis-

entitle the claimants under section 28 of the Land Acquisition Act. Accordingly, this Court in the above stated first appeals awarded interest u/s 28 of the Land Acquisition Act.

7. In the present case also, no exceptional circumstances have been brought on record to dis-entitle the claimants from claiming interest under section 28 of the Land Acquisition Act.

8. It appears from the impugned Judgment and Award that the Reference Court has awarded 9% interest for specific period i.e 10.4.2007 to 31.1.2008, however, that should have been till the realization of the entire amount. In the result following order is passed.

9. The appeal is partly allowed. The respondents in addition to the award passed by the Reference Court shall pay to the claimants interest U/Sec. 28 of the L. A. Act on the enhanced amount of compensation awarded by the Reference Court for one year from the date of possession at the rate of 9% per annum and thereafter

at the rate of 15% per annum till realization of the entire amount.

10. The first appeal accordingly stand disposed of. No costs.

sd/-

(V.K. JADHAV, J.)

...

aaa/-

aaa/-