

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

FIRST APPEAL NO. 665 OF 2016

1. The State of Maharashtra.

2. The Executive Engineer,
B.I.D., Beed.

Appellants...
(Orig. Respondents)

Versus

1. Sukhdeo Govind Ghagare, Age : Major,
2. Sarjerao Govind Ghagare, Age : Major,
3. Jagnath Govind Ghagare, Age : Major,
4. Jalindar Govind Ghagare, Age : Major,

All by Occu. Agricultural, R/o. Sumbewadi,
Tq. Ashti, Dist. Beed.

Respondents
(Orig. Claimants)

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Shri C. V. Dharurkar, AGP for Appellant/State
Shri C. K. Shinde, Advocate for the Respondents

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WITH
FIRST APPEAL NO. 706 OF 2016

1. The State of Maharashtra,
Through -The Collector, Beed.

2. The Executive Engineer,
B.I.D., Beed.

Appellants...
(Orig. Respondents)

Versus

Santosh Bhagwan Selake
Age : 29 years, Occu. Agricultural,
R/o. Sumbewadi, Tal. Ashti,
Dist. Beed.

Respondent
(Orig. Claimant)

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Shri S. P. Sonpawale, AGP for the appellants
Shri C. K. Shinde, Advocate Respondent

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CORAM : P.R. BORA, J.
Dated: July 12, 2017

ORAL JUDGMENT :-

1. When the present appeals are taken up for hearing, it is pointed out that the companion matters arising out of the same common Judgment and Award have been already decided by this Court on 13.06.2017. Learned Counsel submitted that, in the said matters this Court has modified the impugned common Judgment and Award only to the extent of the interest granted by the reference Court under Section 34 of the Land Acquisition Act (hereinafter referred to as the 'Act') from the date of possession and has made the interest under Section 34 of the Act payable from the date of Award under Section 11 of the Act.

2. Shri. Sonpawale, learned AGP does not dispute the correctness of the facts as noted above. Learned AGP submits that, in the present appeals also though the State has raised an objection as about the determination of the amount of compensation by the Reference Court, the said objection is not now pressed by the State in view of the earlier decision rendered by this Court. Learned AGP submitted that, the only objection which needs consideration in the

present appeals is grant of interest by the Reference Court under Section 34 of the Act from the date of possession. Learned Counsel relying upon the Full bench judgment of this Court in the case of *State of Maharashtra Vs. Kailash Shiva Rangari* reported in 2016 (4) Bom.C.R. 1 submitted that the reference Court could not have awarded the interest under Section 34 of the Act from the date of possession. Shri. Shinde, learned Counsel fairly submitted that to that extent the impugned Judgment can be modified and appropriate orders can be passed. In view of the submissions so made, the following order is passed.

ORDER

1. The impugned Judgment & Award in L.A.R. No.448/2006 and L.A.R. No.443/2006 stand set aside to the extent of the interest awarded under Section 34 of the Act from the date of possession. Such interest is made payable from the date of award under Section 11 of the Act. The other part of the Award is maintained as it is.
2. Both the appeals stand partly allowed to the aforesaid extent.
3. Pending civil application, if any, stands disposed of.
4. As requested on behalf of the original claimants the amount of compensation deposited by the State in the present appeals

as well as in the connected appeals arising out of the same common Judgment and Award be transmitted to the reference Court so as to facilitate the withdrawal of the said amount by the respective claimants. While permitting the withdrawal of the said amount, the reference Court shall take into account that the Award passed has been modified in so far as the interest awarded under Sec.34 of the Act and will take necessary steps to recalculate the amount of the original claimants.

5. After disbursement of the amount as per the modified Award to the respective claimants, the surplus amount, if any, be refunded to the State Government.

(P.R. BORA, J.)

ggp