

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3284 OF 2015

1. The State of Maharashtra,
Through the Collector, Beed
 2. The Executive Engineer,
M.I.L.S. Division, Beed
Tq. and District Beed
- ...Appellants

versus

1. Popat s/o Kondiba Bandal,
Age major, Occ. Agriculture,
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed
 2. Ramdas s/o Kondiba Bandal,
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed
 3. Balu s/o Kondiba Bandal,
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed
- ...Respondents

WITH

FIRST APPEAL NO. 3285 OF 2015

1. The State of Maharashtra,
Through the Collector, Beed
 2. The Executive Engineer,
M.I.L.S. Division, Beed
Tq. and District Beed
- ...Appellants

versus

1. Abasaheb s/o Babu Shelar
Age major, Occ. Agriculture,
R/o. Shelarwadi, Tq. Ashti,
District Beed
2. Dadasaheb s/o Dattu Shelar,

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Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed

3. Mandabai s/o Dyandeo Shelar
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed

...Respondents

WITH
FIRST APPEAL NO. 3286 OF 2015

1. The State of Maharashtra,
Through the Collector, Beed
2. The Executive Engineer,
M.I.L.S. Division, Beed
Tq. and District Beed

...Appellants

versus

1. Ranjanabai Bapurao Sase
Age major, Occ. Agriculture,
R/o. Shelarwadi, Tq. Ashti,
District Beed
2. Dadasaheb s/o Rakhmaji Sase,
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed

...Respondents

WITH
FIRST APPEAL NO. 3287 OF 2015

1. The State of Maharashtra,
Through the Collector, Beed
2. The Executive Engineer,
M.I.L.S. Division, Beed
Tq. and District Beed

...Appellants

versus

1. Rakhmaji s/o Kashinath Sase
Age major, Occ. Agriculture,
R/o. Shelarwadi, Tq. Ashti,

District Beed

2. Bapu s/o Kashinath Sase
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed

3. Murlidhar s/o Kashinath Sase
Age major, Occ. Agriculture
R/o. Kerul/Shelarwadi, Tq. Ashti,
District Beed

...Respondents

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Mr. A.M. Phule, AGP for the appellants
Mr. C.K. Shinde, advocate for respondents
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CORAM : V. K. JADHAV, J.
DATED : 25th JULY, 2017

ORAL JUDGMENT:-

1. Being aggrieved by the common judgment and award dated 23.12.2011, passed by the District Judge-2, Beed in L.A.R. No. 542 of 2010 and other three connected reference petitions, the respondent State and Acquiring body have preferred these appeals.

2. Brief facts giving rise to the present appeals are as follows:-

a) The agricultural lands, owned and possessed by the respondents original claimants came to be acquired by the Government for the purpose of construction of village tank No.4 Kerul/Shelarwadi project at Kerul. Notification under Section 4 was published on 02.02.2006. The S.L.A.O., vide his award under Land Acquisition Act, on 11.7.2008

awarded the compensation for the acquired lands at the rate of Rs.820/- per R. except the land admeasuring 29 R of claimant in L.A.R. No. 829 of 2010, in which the S.L.A.O. has awarded the compensation at the rate of Rs.920/- per R. Being dissatisfied with the inadequate compensation awarded by the S.L.A.O, the respondents-claimants preferred aforesaid reference petitions. It has been contended that the compensation awarded by the S.L.A.O. was extremely meager, inadequate and not as per the prevailing market price. The S.L.A.O. has not called upon the sale transactions/sale deeds and on the basis of information supplied by the village Talathi, awarded the compensation. According to the respondents-claimants at the time of issuance of notification under Section 4, minimum market price of the acquired land was Rs.1,00,000/- per acre i.e. Rs.2500/- per R. Accordingly, they have claimed the compensation at the enhanced rate of Rs.2000/- per R alongwith statutory benefits.

b) The appellant State and the acquiring body resisted the said reference petitions by filing written statement. It has been contended that the S.L.A.O. has called upon detail information from village Talathi as to the sale transactions and thereupon considering the sale transactions and market rate, has awarded just and reasonable compensation to the respondents-claimants.

c) The respondents-claimants adduced oral and documentary

evidence in L.A.R. No. 542 of 2010 and filed pursis in other reference petitions to read the evidence adduced in L.A.R. No. 542 of 2010. The appellant State and acquiring body have not adduced any evidence. The learned District Judge-2, Beed, by impugned judgment and award dated 23.12.2011, partly allowed the said reference petitions and awarded the compensation at the enhanced rate of Rs.2000/- per R. Hence, these appeals.

3. Learned A.G.P. for the appellant State submits that the respondents claimants have relied upon three sale instances, Exh.19, 20 and 21 respectively. Though the reference court in para 6 of the judgment has observed that in all those three sale instances, the land of the purchasers in those sale instances is situated adjacent to the land under sale instance and as such, the purchasers might have paid more price of the land than its market value and however, by relying upon those sale instances awarded compensation at the enhanced rate of Rs.2000/- per R. So far as the sale instance Exh.21 is concerned, though the sale deed is of the year 2000, the agricultural land was sold alongwith 4 Anna share in the bore well, however, the reference court has not considered the same and awarded the compensation at the enhanced rate, without any basis. Learned A.G.P. submits that in terms of clause 6 of operative part of the judgment, the reference court has erroneously awarded the interest at the rate of 9% p.a. under Section 34 of the Land Acquisition Act on the awarded amount, from the date of

taking possession instead of date of award till actual payment of the award. Learned A.G.P. submits that in view of the ratio laid down by the Larger Bench of this Court in the case of ***State of Maharashtra vs. Kailash Shiva Rangari, reported in 2016 (3) Mh.L.J. 457,*** the respondents claimants are entitled for the interest under Section 34 of the Act from the date of award and not from the date of possession.

4. Learned counsel for the respondents-claimants submits that Section 4 notification in respect of acquired land was published on 02.02.2006. The sale instances Exh.19, 20 and 21 are of the year 2003, 2004 and 2002, respectively. Though the Reference Court has not increased the amount of consideration of those sale instances by 10% every year, deducted the amount on the count that purchaser's land is situated adjacent to the land under sale instances. Though the reference court has observed that the market price of the land under those sale transactions and the market price on the date of notification under Section 4(1) of the Land Acquisition Act would be more than Rs.2000/- has awarded the compensation at the enhanced rate of Rs.2000/- per R only. No interference is required so far as the enhanced rate as awarded by the reference court is concerned. The reference court has awarded just and reasonable compensation. Learned counsel has however, fairly concedes that in terms of the judgment of Larger Bench in the case of ***State of Maharashtra vs. Kailas Shiva Rangari (supra)*** the respondents-claimants are entitled

for interest under Section 34 of the Land Acquisition Act from the date of passing of award i.e. from 11.7.2008 till the date of actual payment of amount under award i.e. up to 8.5.2009.

5. On careful perusal of pleadings, evidence and the impugned judgment and award passed by the reference court, it appears that the reference court has considered the sale instances Exh.19, 20 and 21 which are from same village, where the acquired lands are situated. Notification under Section 4 in respect of acquired land was published on 02.02.2006. The first sale transaction Exh.19 is dated 29.9.2003 and as per the consideration paid, the market rate comes to Rs.2273/- per R. The sale deed Exh.20 is about alienation of agricultural land on 13.7.2004 and as per the consideration paid, the market price comes to Rs.2500/- per R. As per the sale transaction Exh.21, the sale deed was executed on 16.9.2002 and market rate comes to Rs.2500/- per R. Even though all these three sale instances Exh.19, 20 and 21, respectively executed prior to Section 4 notification published in respect of the acquired land, the reference court has not made any addition, year wise, in the consideration amount of those lands under sale instances. However, the reference court has deducted the amount from consideration amount of those sale instances on the ground that the purchaser's land is adjacent to the lands under sale instances. Even in para 6 of the judgment, the reference court has observed that the market price as on the date of section 4 Notification would be more than

Rs.2000/- in respect of acquired land.

6. In view of above discussion, I do not find any fault in the judgment and award passed by the reference court except clause 6 of operative part of the order. The reference court awarded the interest under section 34 of the Land Acquisition Act from the date of possession instead from the date of award. In view of ratio laid down by the Larger Bench in the case of ***State of Maharashtra vs. Kailash Shiva Rangari, reported in 2016 (3) Mh.L.J. 457***, the respondents claimants are entitled for interest under section 34 of the Land Acquisition Act from the date of award i.e. from 11.7.2008 till the date of actual payment of amount under award i.e. up to 8.5.2009. Thus, with this modification, these appeals can be disposed of. Hence, I proceed to pass the following order:-

O R D E R

- I. The first appeal No. 3284 of 2015 (The State of Maharashtra and another vs. Popat Kondiba Bandal and others), first appeal No. 3285 of 2015 (The State of Maharashtra and another vs. Abasaheb Babu Shelar and others), first appeal No. 3286 of 2015 (The State of Maharashtra and another vs. Ranjanabai Bapurao Sase and another), first appeal No. 3287 of 2015 (The State of Maharashtra and another vs. Rakhmaji Kashinath Sase and others), are hereby partly allowed. No costs.
- II. The common judgment and award dated 23.12.2011 passed by the District Judge-2, Beed, in L.A.R. Nos. 542 of 2010, 829

of 2010, 540 of 2010 and 541 of 2010, is hereby modified to the extent of clause 6 of operative part of order in the following manner:-

“The respondents (appellants herein) do pay interest at the rate of 9% p.a. under Section 34 of Land Acquisition Act on the awarded amount, from the date of passing of the award till the date of actual payment of the awarded amount i.e. from 11.7.2008 to 8.5.2009.”

- III. Rest of the judgment and award stands confirmed.
- IV. The award be drawn up as per the above modification.
- V. The appeals are accordingly disposed of.

(V. K. JADHAV, J.)

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