

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**903 FIRST APPEAL NO. 3267 OF 2018
WITH
CA/3813/2018 IN FA/3267/2018**

The Executive Engineer,
Nandur Madhameshwar Canal Division,
Vaijapur, Tal.Vaijapur,
District Aurangabad under the
Godawari Marathwada Irrigation
Development Corporation,
Aurangabad.

..Appellant
(Orig.Resp.No.2)

Versus

Yadav Bala Shinde (died)
Through LRs.

1. Asaram S/o. Yadav Shinde
Age: 67 years, Occu.: Agri.,
R/o. Ukadgaon Road, Vaijapur,
Tq.Vaijapur, Dist.Aurangabad.

2. Bhimrao S/o. Yadav Shinde
Age: 60 years, Occu.: Agri.,
R/o. As above

..(Orig.Claimant)

3. The State of Maharashtra,
Through District Collector,
Aurangabad.

..(Orig.Resp.No.1)
..Respondents.

...

**WITH
FIRST APPEAL NO. 3268 OF 2018
WITH CA/3816/2018 IN FA/3268/2018**

The Executive Engineer,
Nandur Madhameshwar Canal Division,
Vaijapur, Tal.Vaijapur,
District Aurangabad under the
Godawari Marathwada Irrigation
Development Corporation,
Aurangabad.

..Appellant
(Orig. Resp. No.2)

Versus

1. Sahebrao S/o Jaganath Shete
Age: 62 years, Occu.: Agriculture,
R/o.Shete Vasti, Ukadgaon Road,
Vaijapur, Tal.Vaijapur,
District: Aurangabad ..(Orig. Claimant)
2. The State of Maharashtra,
Through District Collector,
Aurangabad. ..(Orig. Resp. No.1)
..Respondents.

...
Advocate for Appellants : Shri M.S.Karad h/f.
Shri S.S.Thombre
AGP for Respondent – State : Shri G.O.Wattamwar
Advocate for Respondents - Claimants : Shri A.D.Kasliwal
...

CORAM : P.R.BORA, J.

DATE: 26th October, 2018

ORAL JUDGMENT:-

1. Heard Shri M.S.Karad, learned Counsel appearing for the appellant, Shri G.O.Wattamwar, learned AGP for the respondent - State and Shri A.D.Kasliwal, learned Counsel appearing for the respondents – original claimants.
2. In both these appeals. the grounds of objection raised are same. I have, therefore, heard the common arguments in both these appeals and I deem it appropriate to decide these appeals by common reasoning.

3. At the outset, learned Counsel appearing for the Acquiring Body submitted that the appellant is restricting the objection to the impugned Judgments only to the extent of grant of interest by the Reference Court under Sections 28 and 34 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The learned Counsel submitted that in view of the law laid down by the Full Bench of this Court in the case of the *State of Maharashtra Vs. Kailash Shiva Rangari [2016 (4) All MR 513]*, the Reference Court could have granted interest under Section 34 of the Act only from the date of declaration of the award under Section 11 of the Act and not from any prior date.

4. Shri Kasliwal, learned Counsel fairly concedes the legal position and submits for passing appropriate orders.

5. It is further brought to my notice that in the companion appeals arising out of the same acquisition, matters are settled before the *Lok Adalat* held on 08.09.2018. The copy of the order passed by the Panel of *Lok Adalat* is tendered across the Bar. In the said matters also, the impugned awards are modified only to the extent of grant of interest under Section 34.

6. In view of above, similar course needs to be adopted in the present matters also. Hence, the following order is passed:-

ORDER

I) The awards impugned in the present appeals shall stand modified to the extent of award of interest under Section 34 of the Land Acquisition Act, 1894.

II) The order passed by the Reference Court awarding interest under Section 34 of the Land Acquisition Act, 1894, from the date of taking possession of the acquired land, stands quashed and set aside. Instead, such an interest is made payable from the date of declaration of award under Section 11 of the Land Acquisition Act, 1894.

III) Save and except the aforesaid modification, the rest of the award remains unchanged.

IV) Both the appeals stand partly allowed in the aforesaid terms. Pending civil applications stand disposed of.

V) The amount of compensation deposited by the Acquiring Body in this Court be transmitted to the Executing Court i.e. Court of Civil Judge, Senior Division, Vaijapur, District Aurangabad.

VI) The respondents are entitled to receive the amount of compensation as per the modified award. Balance, if any, be refunded to the Acquiring Body.

(P.R.BORA)
JUDGE