

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

FIRST APPEAL NO.2449 OF 2018

1. The Executive Engineer
Lift Irrigation Division,
Dist. Osmanabad,
Through;
Chandrakant S/o. Ramrao Patil,
Age: 47 years, Occ.:Service as
Sub-Divisional Engineer,
at Tawara Project Sub-Division,
Tq. Bhoom, Dist. Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.2)
2. The State of Maharashtra
Through; The Collector,
at Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.1)
3. Special Land Acquisition
Officer No.1
Osmanabad, Dist. Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.3)

VERSUS

1. Sudam S/o. Ishwara Bhoite
(Died Through LRs.)
 - 1A) Rajendra S/o. Sudam Bhoite
Age: 50 years, Occu.:Agriculture,
R/o. Lanjeshwar, Tq. Bhoom,
Dist. Osmanabad
 - 1B) Kalyan S/o. Sudam Bhoite,
(Died Through LRs.)
 - 1/B-1) Kesharbai Kalyan Bhoite
Age Major, occu.:Agriculture,
R/o. As above
 - 1/B-2) Surekha Mohan Kadam
Age: Major, Occu.:Agriculture,
R/o. As above,

1/B-3) Deepak Kalyan Bhoite
Age: Major, Occu.:Agriculture,
R/o. As above,

1-C) Bharat Sudam Bhoite
Age: Major, Occu.:Agriculture,
R/o. As above

= **RESPONDENTS**
(Orig. Claimants)

Shri. Shyam c. Arora, Advocate for appellants;

Shri. M.A. Thorbole, Advocate for Respondent No.
1A, 1B/3 & 1C

WITH
FIRST APPEAL NO.2450 OF 2018

1. The Executive Engineer
Lift Irrigation Division,
Dist. Osmanabad,
Through;
Chandrakant S/o. Ramrao Patil,
Age: 47 years, Occ.:Service as
Sub-Divisional Engineer,
at Tawara Project Sub-Division,
Tq. Bhoom, Dist. Osmanabad

= **APPELLANT**
(ORIG.RESP.NO.2)

2. The State of Maharashtra
Through; The Collector,
at Osmanabad

= **APPELLANT**
(ORIG.RESP.NO.1)

3. Special Land Acquisition
Officer No.1
Osmanabad, Dist. Osmanabad

= **APPELLANT**
(ORIG.RESP.NO.3)

VERSUS

Kalyan Sahebrao Atule
Age: Major, Occu.:Agriculture,
R/o. Lanjeshwar, Tq. Bhoom,
Dist. Osmanabad

= **RESPONDENT**

(Orig. Claimant)

Shri. Shyam c. Arora, Advocate for appellants;

Shri. M.A. Thorbole, Advocate for Respondent sole.

**WITH
FIRST APPEAL NO.2451 OF 2018**

1. The Executive Engineer
Lift Irrigation Division,
Dist. Osmanabad,
Through;
Chandrakant S/o. Ramrao Patil,
Age: 47 years, Occ.:Service as
Sub-Divisional Engineer,
at Tawara Project Sub-Division,
Tq. Bhoom, Dist. Osmanabad
**= APPELLANT
(ORIG.RESP.NO.2)**
2. The State of Maharashtra
Through; The Collector,
at Osmanabad
**= APPELLANT
(ORIG.RESP.NO.1)**
3. Special Land Acquisition
Officer No.1
Osmanabad, Dist. Osmanabad
**= APPELLANT
(ORIG.RESP.NO.3)**

VERSUS

1. Tayyabali Mehatabali Arab
Age: Major, Occu.:Agriculture,
R/o. Lanjeshwar, Tq. Bhoom,
Dist. Osmanabad
2. Askarali Mehatabali Arab
Age: Major, Occu.:Agriculture,
R/o. As above
**= RESPONDENTS
(Orig. Claimants)**

Shri. Shyam c. Arora, Advocate for appellants;

**WITH
FIRST APPEAL NO.2452 OF 2018**

1. The Executive Engineer
Lift Irrigation Division,
Dist. Osmanabad,
Through;
Chandrakant S/o. Ramrao Patil,
Age: 47 years, Occ.:Service as
Sub-Divisional Engineer,
at Tawara Project Sub-Division,
Tq. Bhoom, Dist. Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.2)
2. The State of Maharashtra
Through; The Collector,
at Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.1)
3. Special Land Acquisition
Officer No.1
Osmanabad, Dist. Osmanabad
= **APPELLANT**
(ORIG.RESP.NO.3)

VERSUS

Datta Dagadu Pawar
Age: Major, Occu.:Agriculture,
R/o. Lanjeshwar, Tq. Bhoom,
Dist. Osmanabad
= **RESPONDENT**
(Orig. Claimant)

Shri. Shyam C. Arora, Advocate for appellants;

CORAM : P.R. BORA, J.
DATED : 28th SEPTEMBER, 2018.

ORAL JUDGMENT:-

1. Heard finally with consent of the learned
counsel appearing for the respective parties.

2. The acquiring body has restricted its challenge to the impugned Judgment and Award in the present appeals only to the extent of interest granted by the Reference Court in the impugned Awards on the enhanced amount of compensation from the date of Section 4 notification.

3. Shri Arora, learned counsel appearing for the appellants – acquiring body, submitted that the Reference Court has erred in awarding the interest under Section 28 of Land Acquisition Act, 1894 (for short, the said Act) from the date of Section 4 notification. To that extent the learned counsel submits that the Awards impugned in the present appeals need to be modified. The learned counsel has relied upon the judgment of this Court (Coram: S.B.Shukre,J.) in the case of State of Maharashtra Vs. Ramesh s/o Tukaram Meshram (FA No.383/2004 decided on 23rd November, 2017 and another judgment delivered by this court on 5th March, 2018 in First Appeal No.483/2018 with connected appeals. The learned counsel accordingly has prayed for allowing the appeals filed by the appellant acquiring body to the aforesaid extent.

4. Learned Counsel for the respondents though sought to rely upon the judgment of the Hon'ble Apex court in the case of M/s Periyar & Pareekanni Rubbers Ltd. Vs. State of Kerala (Civil Appeal Nos. 7034-7037 of 2015), the said judgment apparently would not apply to the facts of the present case since the issue involved in the said matter was about the interest to be awarded on 30% solatium amount. The issue involved in the present appeals is altogether different.

5. As I have noted herein above, the objection of the acquiring body is for grant of interest under Section 28 of the Act on the enhanced amount of compensation from the date of issuance of Section 4 notification. The learned counsel for the respondents after having gone through the judgment relied upon by the learned counsel for the acquiring body, submits for passing appropriate orders.

6. In view of the judgments of this Court referred to herein above, the present appeals deserve to be allowed to that extent and

accordingly following order is passed.

ORDER

- i. Clause 4 of the common judgment and order passed in LAR No.775/2002 with connected LARs, is quashed and set aside. Instead, the interest under Section 28 of the Act is made payable from the date of declaration of the Award under Section 11 of the Act. The Award may be modified to the aforesaid extent.
- ii. Remaining part of the Award is maintained as it is.

(P.R. BORA)
JUDGE

bdv