

**IN THE NATIONAL LOK ADALAT PRESIDED OVER BY
HON'BLE SMT. JUSTICE VIBHA KANKANWADI
HELD ON 8TH DECEMBER, 2018,
AT HIGH COURT LEGAL SERVICES SUB-COMMITTEE AT
AURANGABAD**

(pb) 57 FIRST APPEAL NO. 3916 OF 2017

EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD & ORS
VERSUS
KESHARBAI VASUDEO GUNJAL

...

59 FIRST APPEAL NO. 3917 OF 2017

EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD & ORS
VERSUS
HANUMANT VASUDEO GUNJAL

...

60 FIRST APPEAL NO. 3910 OF 2017

THE STATE OF MAHARASHTRA
VERSUS
RAVSAHEB RAMKRUSHNA KADAM

...

61 FIRST APPEAL NO. 3915 OF 2017

EXECUTIVE ENGINEER, MEDIUM PROJECT DIVISION, OSMANABAD AND OTHERS
VERSUS
KALINDAR VAMIR @ AJIJ SHAIKH (DEAD) THR- LRS MUJANABAI AND ORS

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Advocate for Appellant -Acquiring Body : Mr. S. G. Karlekar
AGP for appellant- State : Mr. G. O. Vattamwar
Advocate for Respondents-claimants : Mr. Abhijit More

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ORDER

All these appeals are filed by the appellant - Acquiring Body. Mr. Nitin Prabhakar Ambure, Executive Engineer, Osmanabad Medium Project Division, Osmanabad, is present. Mr. S. G. Karlekar, Advocate for the acquiring body and Mr. G. O. Wattamwar, learned AGP for State are also present.

2. The claimants are represented by Advocate Mr. A. S. More.

3. The learned counsel for the Acquiring Body submitted that, in view of the policy decision taken by the State Government vide Government Resolution No. **संकीर्ण-२०१४/प्र.क.४१/भाग-१/अ-४ दि. ३ नोव्हेंबर २०१६** with Government Corrigendum dated 23rd February 2017 & 13th August, 2018 to the said Government Resolution, the Corporation has decided to settle the present appeals by accepting the market rates as are determined by the Reference Court since the same are within the outer limits, as prescribed in the aforesaid Government Resolution.

4. The learned counsel further submitted that in all these matters, the Reference Court has awarded interest under Section 34 of the Act on the amount of compensation in some cases from the date of possession and, in some cases from the date of issuance of the Notification under Section 4 of the Act. The learned counsel submitted that, in view of the Full Bench Judgment of this Court in the case of ***The State of Maharashtra Versus Kailash Shiva Rangari***, reported in **2016(4) ALL M.R., 513**, such an interest can only be awarded from the date of Award under Section 11 of the Act. The learned counsel submitted that, to the said extent the impugned Awards need to be modified.

5. The learned counsel appearing for the claimants fairly

submitted that, they do not have any objection to modify the Award by making the interest under Section 34 of the Act payable from the date of Award under Section 11 of the Act instead of from the date of possession or from the date of notification under Section 4 of the Land Acquisition Act, 1894. The learned counsel further submitted that, if the Acquiring Body deposits the entire amount of compensation as per the modified Award, within the period of six months, the claimants are ready to give up the interest of the said period of six months on the amount of compensation.

6. In view of the above submissions, following order is passed :-

ORDER

- a) The Awards impugned in the present appeals stand modified only to the extent of interest under Section 34 of the Act granted from the date of possession or from the date of Section 4 notification and it is directed that, such an interest shall be made payable from the date of Award passed under Section 11 of the Act.
- b) The Acquiring Body shall deposit the amount of compensation as per the modified Award, within six months from the date of this order, if already not deposited.
- c) No interest shall be payable of the period of six months, if amount of compensation is deposited by the acquiring body within the period of six months, failing which, allowance so given to the acquiring body shall stand automatically withdrawn, unless with consent of the claimants the time to deposit the amount is got extended by the acquiring body from the Court.

- d) In the matters wherein, amount of compensation is deposited by the Acquiring Body in pursuance of the Award passed by the Reference Court with interest under Section 34 of the Act from the date of possession, the excess amount of interest shall be refunded to the Acquiring Body.
 - e) The amount deposited in this Court be transmitted to the Reference Court so as to facilitate it's withdrawal by the respective claimants.
 - f) It would be open for the claimants to withdraw the amount by making application to the Reference Court.
 - g) The Acquiring Body shall be entitled for the refund of Court fees in accordance with law.
7. Delay, if any, occasioned in filing the appeals stands condoned.
8. Other civil applications, if any, stand disposed of.

(S.P.Brahme)
Advocate
Member

(V.B. Mantri)
D.J.(Retd.)
Member

(VIBHA KANKANWADI, J.)
Head of the Panel

Date: 08.12.2018
Place: Aurangabad

agd.