

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

**FIRST APPEAL NO.3429 OF 2018
WITH CA/13388/2018 WITH CA/11782/2015
IN FA/3429/2018**

1. Executive Engineer,
Latur Minor Irrigation Divn.,
Latur. Under Godawari
Marathwada Irrigation
Development Corporation,
Aurangabad.
2. The State of Maharashtra
Through its Collector,
Latur.
3. Special Land Acquisition Officer,
Purna Project, Latur.

Versus

Tukaram Pandurang Hangarge
(Died) Through LR's.

1. Sumitra w/o Tukaram Hangarge
2. Pradip Tukaram Hangarge
3. Kavita Hanmant Gaikwad
4. Savita Dnyanoba Mane

Mr. A.N. Gaddime, Advocate holding for
Mr. B.A. Shinde, Advocate for the appellant/Acquiring Body.
Mr. S.N. Morampalle, A.G.P. for the State.
Mr. S.B. Madde, Advocate for the respondent.

CORAM : SUNIL K. KOTWAL,J.

Dated : 17th December 2018.

ORAL JUDGMENT :-

. Mr. Gaddime, learned Counsel holding for Mr. B.A. Shinde, learned Counsel for the appellant / Acquiring Body submits that this appeal may be disposed of only by modifying Clause-5 of the operative part of award for grant of compensation under Section 28 of the Land Acquisition Act (hereinafter referred to as “the Act”) from the date of award i.e. from 02.08.2006. Learned Counsel for the original claimants has no objection to dispose of the appeals, subject to above-said correction regarding date of grant of interest under Section 28 of the Act.

2. I have gone through the award passed by the Reference Court. From Clause-5 of the operative part of the award, it becomes clear that the Reference Court erroneously awarded interest under Section 28 from the date of publication of notification under Section 4 (1) of the Act. As undisputedly the possession of acquired land is obtained prior to publication of notification under Section 4 (1) of the Act, the interest under Section 28 can be awarded only from the date of passing of award i.e. 02.08.2006.

3. Therefore, the appeals are allowed. The award passed by Reference Court in L.A.R. No.246/2008 be modified only in respect of Clause-5 of the operative part, as under :-

“Respondents shall pay interest to the claimants under Section 28 of the Land Acquisition Act from the date of award i.e. from 02.08.2006, for the first year at the rate of 9% per annum and thereafter at the rate of 15% per annum, on enhanced compensation, 30% solatium and 12% component amount, till the deposit of that amount in the Court”.

4. Parties shall bear their respective costs of the appeal. The appeal is disposed of in above-said terms.

5. Civil Application for withdrawal is disposed of as allowed. Civil Application for stay is disposed of.

(SUNIL K. KOTWAL)
JUDGE