

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

**FIRST APPEAL NO. 815 OF 2017**

- 1] Sunita w/o. Ajinath Pawar,  
Age 45 years, Occupation Agriculture,
- 2] Ashok s/o. Ajinath Pawar,  
Age 25 years, Occu. Agril.,
- 3] Sharad s/o. Ajinath Pawar,  
Age 23 years, Occu. Agril.,
- 4] Shivaji s/o. Ajinath Pawar,  
Age 21 years, Occu. Agril.,
- 5] Tushar s/o. Ajinath Pawar,  
Age 21 years, Occu. Agril.,

All R/o. Wahil, Taluka Patoda,  
District Beed.

.. **APPELLANTS**  
**(Original**  
**Respondents/**  
**claimants)**

**VERSUS**

- 1] The State of Maharashtra  
Through the Collector, Beed,  
District Beed.  
Through Government Pleader,  
High Court of Bombay Bench at  
Aurangabad.
- 2] The Executive Engineer,  
Minor Irrigation, Zilla Parishad,  
Taluka and District Beed.

.. **RESPONDENTS**  
**(Original**  
**Appellants)**

...

Mr. Dattatraya R. Jayabhar, Advocate or Appellants  
Mr. S. P. Deshmukh, Assistant Government Pleader for Respondent No.1  
Mr. A. D. Aghav, Advocate for Respondent No.2

...

**CORAM : SUNIL K. KOTWAL, J.**

**DATED : 12<sup>th</sup> OCTOBER, 2018.**

**JUDGMENT :-**

This appeal is directed against the Judgment and Award passed by the District Judge-2, Beed, in Land Acquisition References No. 550 and 551 of 2010, for modification of clause (4) of the Award passed by learned trial Court to grant the interest in accordance with Section 34 of the Land Acquisition Act, 1894 (Here-in-after, referred to as 'L.A.Act', for short).

2. Heard learned counsel for the appellants and learned AGP for the State. Despite service, none appears for the respondent No.2 Acquiring Body.

3. Mr. D. R. Jaybhar, learned counsel for the appellants submits that under Section 34 of the L.A. Act, if possession of the acquired land is taken prior to passing of the Award, then the Collector is bound to pay interest on the compensation amount awarded by him @ 9 per cent (%) per annum (p.a.) from the date of taking possession and after one year from the date of possession, the rate of interest shall be enhanced @ 15 % p.a. till deposit of the compensation amount. He submits that the learned trial Court awarded interest @ 9 % p.a. under Section 34 of the L.A.Act from the date of taking possession till the date of actual payment of awarded amount by the Collector i.e. from 01-09-2003 till 16-05-2008.

4. Learned AGP for the respondent No.1 State fairly concedes that the rate of interest under Section 34 of the L.A.Act is to be enhanced after one year from the date of taking possession, if the compensation

amount is not deposited within that period and enhancement shall be @ 15 % till the deposit of compensation amount.

5. Section 34 of the L.A.Act reads as under :-

34. Payment of interest - When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:

[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]

6. Bare glance at Section 34 of L.A.Act makes it clear that if the compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest @ 9 % p.a. from the date of so taking possession until the compensation amount is paid or deposited. The proviso to this Section provides that from the date of taking possession for the period of one year, the rate of interest shall be @ 9 % p.a., and thereafter, the rate of interest shall be @ 15 % p.a. till the date of deposit of payment of compensation.

7. In the case at hand, admittedly the possession of the acquired land in both Land Acquisition Reference proceedings was taken by the Collector on 1<sup>st</sup> September, 2003. However, the Collector deposited the compensation amount awarded by him on 16<sup>th</sup> May, 2008. Thus, under Section 34 of the L.A.Act, the Collector is bound to pay interest @ 9 % p.a. from 01-09-2003 to 30-09-2004, and thereafter, interest @ 15 % p.a. from 01-10-2004 till 16-05-2008. Hence, the order :-

**ORDER**

1. First Appeal No. 815 of 2017 is allowed.
2. The Judgment and Award passed by the District Judge-2, Beed, in Land Acquisition References No. 550 and 551 of 2010 is modified in above said terms.
3. Parties to bear their respective costs.

**[ SUNIL K. KOTWAL ]**  
**JUDGE**

rrd.