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

FIRST APPEAL NO.601 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Kishan S/o Sakharam Kamble
Age : 55 yrs, Occu : Agril,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed .. **Respondents**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

....

WITH

FIRST APPEAL NO.2733 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Karbhari s/o Anna Aage
Age : 55 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

2. Gangadhar s/o Irappa Kelurkar
Age : 52 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

3. Laxman s/o Nangnath Kachare
Age : 49 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

4. Sunil Kumar Laxmanrao
Age : 42 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

5. Vijaykumar Pandurang Pawar
Age : 48 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

6. Arpana Devidas Sonwane
Age : 38 yrs, Occu : Household & Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

7. Sunil S/o Shriram Sonwane
Age : 48 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

8. Pandurang s/o. Bhagwat Salunke
Age : 38 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

9. Dinkar s/o Rajabhau Pawar
Age : 51 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

10. Ulhaskumar s/o Rameshwar Kadam
Age : 36 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

11. Shamson s/o Ramesh Salve
Age : 35 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

12. Mohamad s/o Abdul Mazid
Age : 66 yrs, Occu : Agri,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed.

G.P.A for R-2 to 12
Shri Karbhari Anna Aage i.e. R-1 **.. Respondents**
(Orig. Claimants)

....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondents

....

WITH

FIRST APPEAL NO.2735 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Shivaji Ramchandra Mule
Died Through L.Rs

1. Shantabai Prabhakar Wakade
Age : 60 years, Occu : Household,

2. Kantabai Bappaji Diware
Age : 55 years, Occu : Household,

3. Murlidhar Shivaji Mule
Age : 49 years, Occu : Agri,

4. Shrikishan Shivaji Mule
Age : 45 years, Occu : Agri,

5. Dattatraya Shivaji Mule
Age : 40 years, Occu : Agri,

All R/o. Dongar Pimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State

....

WITH

FIRST APPEAL NO.2734 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Tukaram s/o Chandrakant Ghorpade
Age : 63 yrs, Occu : Agril,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed

2. Dnyanoba s/o. Chandrakant Ghorpade
Age : 59 years, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondents

...

WITH

FIRST APPEAL NO.2736 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Tukaram s/o Sadhu Aage
Age : 51 yrs, Occu : Agril,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed **.. Respondent**
(Orig. Claimant)

....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

.....

WITH

FIRST APPEAL NO.2737 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Namdeo s/o Bhaurao Aage
Age : 54 yrs, Occu : Agril,
R/o. Dhongarpimpla,
Tal. Ambajogai, Dist. Beed

2. Santosh s/o Achutrao Pawar
Age : 48 years, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

3. Dhanraj s/o Achutrao Pawar
Age : 44 years, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

4. Shrikishan Pandurang Tarkase
Age : 40 years, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

5. Dipak s/o Laxman Dhautulwar
Age : 25 years, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

GPA for R-2 to 5
Shri Namdeo s/o Bhaurao Aage i.e. R-1 **.. Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondents

...

WITH

FIRST APPEAL NO.2738 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Hanumant s/o Ganpati Aage
Age : 51 yrs, Occu : Agri,

R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

.....

WITH

FIRST APPEAL NO.2739 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Bhanudas s/o Ramchandra Muley
Age : 62 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

.....

WITH

FIRST APPEAL NO.2740 OF 2017

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Sadashiv s/o Sadhu Aage (Died)
Through L.Rs

1-a. Shakubai D/o Sadashiv Aage
Age : 35 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

1-b. Baliram s/o Sadashiv Aage
Age : 33 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

1-c. Mahadu s/o Sadashiv Aage
Age : 30 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimants)

...

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondents

.....

WITH

FIRST APPEAL NO.595 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Balasaheb s/o Madhukar Neharkar
Age : 57 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

2. Dilip s/o Madhukar Neharkar
Age : 54 yrs, Occu : Agril
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

3. Sunder s/o Madhukar Neharkar
Age : 50 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for the Appellants – State.

...

WITH

FIRST APPEAL NO.596 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Maruti s/o Sadhu Aage (Died)
Through L.Rs.

1a. Dnyanoba s/o Maruti Aage
Age : 29 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

1b. Sukhdeo s/o Maruti Aage
Age : 26 yrs, Occu : Agril

R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimant)

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for the Respondents

....

WITH

FIRST APPEAL NO.597 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Suryabhan s/o Kerba Kasbe
Age : 58 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

2. Sandipan s/o Kerba Kasbe
Age : 54 yrs, Occu : Agril
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for the Appellants – State

....

WITH

FIRST APPEAL NO.598 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Ramrao Namdeo Ghorpade (Died)
Vitthal Ramrao Ghorpade (Died)
Through LRs

1/1. Rukminbai Vitthal Ghorpade
Age : 36 yrs, Occu : Household,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

1/2. Annapurna Shamrao Chavan
Age : 34 yrs, Occu : Nil,
R/o. Palaskheda, Tq. Kaij,
Dist. Beed

1/3. Manisha Namdeo Sherekar
Age : 30 yrs, Occu : Agri,
R/o. Moha, Tq. Kaij, Dist. Beed

1/4. Ranubai @ Sunanda w/o. Ankush Jamdar
Age : 28 yrs, Occu : Nil,
R/o. Pathoda, Tq. Ambejogai,
Dist. Beed.

1/5. Rajshri Dinkar Shere
Age : 29 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tq. Ambejogai,
Dist. Beed

1/6. Asha w/o Vitthal Ghorpade
Age : 24 yrs, Occu : Nil,
R/o. Dhongarpimpla, Tq. Ambejogai,
Dist. Beed

2. Shriniwas s/o Namdeo Sherkar
Age : 24 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed .. Respondents
(Orig. Claimants)

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent Nos.1 & 2
....

WITH

FIRST APPEAL NO.599 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Uddhav s/o Prabhakar Yadhav
Age : 50 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent
....

WITH

FIRST APPEAL NO.600 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Devidas s/o Tukaram Landge
Age : 52 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Smt Swati P. More (Nade), Advocate for Respondent

....

WITH

FIRST APPEAL NO.603 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Angad s/o Anna Aage
Age : 51 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed **.. Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

....

WITH

FIRST APPEAL NO.604 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra

Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

1. Sakharam s/o Narayan Lokhande
Age : 48 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambejogai,
Dist. Beed

2. Jarasandh s/o Haribhau Kesore
Age : 44 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambejogai,
Dist. Beed

3. Madhukar s/o Vitthalrao Survase
Age : 40 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambejogai,
Dist. Beed .. **Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for appellants- State
Smt S.P. More, Advocate for Respondent No.1

....

WITH

FIRST APPEAL NO.605 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)
.. Appellants

Versus

Haribhau s/o Gopal Pawar
Age : 39 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambejogai,
Dist. Beed .. **Respondent**
(Orig. Claimant)

.....

Shri B.R. Surwase, Advocate for the Appellants – State
Shri R.K. Ashtekar, Advocate for Respondent

....

WITH

FIRST APPEAL NO.606 OF 2015

1. Executive Engineer,
Beed Minor Irrigation Division,
Beed under Godawari Marathwada ..(Orig. Respd. No.2)
Irrigation Development Corporation
Aurangabad

2. The State of Maharashtra
Through Collector, Beed .. (Orig. Respt No.1)

.. Appellants

Versus

1. Balasaheb s/o. Ramkishan Sherekar
Age : 25 yrs, Occu : Agril,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

2. Navnath s/o Gopinath Pawar
Age : 45 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambejogai,
Dist. Beed

3. Ashok s/o. Venunath Pawar
Age : 36 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed

4. Damodhar s/o. Sopan Wavdane,
Age : 40 yrs, Occu : Agri,
R/o. Dhongarpimpla, Tal. Ambajogai,
Dist. Beed .. **Respondents**
(Orig. Claimants)

.....

Shri B.R. Surwase, Advocate for appellants- State

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CORAM : P.R. BORA, J.
Dated: March 05, 2019

ORAL JUDGMENT :-

1. Learned Counsel Shri Ashtekar submitted that, the respondent in First Appeal No.2735 of 2017 has expired. The learned Counsel further submitted that, he has instructions to appear for his legal heirs and tendered across the bar the names of the legal heirs of deceased sole respondent. The learned Counsel for the Acquiring Body shall take the names of the legal heirs of the said deceased respondent on record forthwith.

2. Since all these appeals are arising out of the acquisitions made for the construction of Nilkantheshwar Storage Tank at village Dongarpimpla, I heard the common arguments in all these matters and I deem it appropriate to decide all these appeals by a common reasoning.

3. First Appeal No.601 of 2015 with connected appeals are form one group, whereas First Appeal No.2733 of 2017 with connected appeals are form second group. The appeals in the first group are arising out of the common Judgment and Award passed by District Judge – 1 Ambajogai in LAR No.90 of 2006 with connected LAR's decided on 11.06.2012, whereas the second group of appeals

are arising out of the common Judgment and Award passed by the same Court in LAR No.88 of 2006 with connected LAR's decided on 08.06.2012.

4. The lands, which are involved in the present matters, are acquired some from village Dongarpimpla and some from village Rajewadi. As noted herein above, they are acquired for the construction of Nilkantheshwar Storage Tank at village Dongarpimpla. The notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') in that regard was published in the Official Gazette on 22.04.2000 and the Award under Section 11 of the Act came to be passed on 31.12.2002. The SLAO had offered the compensation to the respective claimants at the uniform rate of Rs.400/- per *Are* holding the lands to be dry lands. Dissatisfied with the amount of compensation so offered, the claimants preferred the reference applications under Section 18 of the Act, which were adjudicated by the District Judge-1, Ambajogai. The said Court is hereinafter referred to as the 'Reference Court'. In the reference applications, the claimants had claimed the compensation at the rate of Rs.2000/- per *Are*. In order to substantiate the claims raised by them, the claimants in addition to their own testimonies had relied upon, in both the groups of appeals,

on two sale instances. In both the group of appeals, the said sale instances were marked as Exhs.27 & 28. No evidence was adduced on behalf of the respondent – State or by the Acquiring Body. The learned Tribunal, after assessing the evidence brought on record before it, though determined the market value of the acquired lands, which were the subject matter in LAR No.88 of 2006 with connected LAR's at the rate of Rs.2000/- per *Are*, the same Court determined the market value of the lands, which were the subject matter in LAR No.90 of 2006 with connected LAR's at the rate of Rs.1500/- per *Are*. Aggrieved by, the Acquiring Body has preferred the present appeals.

5. Shri Surwase, learned Counsel appearing for the Acquiring Body assailed the impugned Judgments and Awards on various grounds. Obviously, the very first ground which was canvassed by the learned Counsel was that, the Reference Court on the basis of the same evidence, when has determined the market value of the acquired lands in the first group of appeals at the rate of Rs.1500/- per *Are*, without assigning any special reasons has determined the market value of the acquired lands in the another group of appeals at the rate of Rs.2000/- per *Are*. The learned Counsel submitted that, the Reference Court has manifestly erred in relying upon the sale instance pertaining to 11 *Are* land in

determining the market value of the acquired lands, which are the large tracks of land and their market value could not have been determined on the basis of the sale instance pertaining to such a small piece of land. The learned Counsel further submitted that, the Reference Court has also erred in awarding the interest under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification, which is impermissible in view of the law laid down by the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513**. The learned Counsel further submitted that, on the contrary, the SLAO had considered the overall circumstances and by visiting the acquired lands personally has determined the market value of the said lands at the rate of Rs.400/- per *Are*. The learned Counsel, in the circumstances, prayed for setting aside the impugned Judgments and Awards and to restore the Award passed by the SLAO under Section 11 of the Act.

6. Learned Counsel Smt More and Shri Ashtekar are appearing for the claimants in these matters. The learned Counsel appearing for the claimants were common in submitting that, the Reference Court has rightly determined the market value of the acquired lands at the rate of Rs.2000/- per *Are*. The learned Counsel taking me through the evidence on record submitted that, though the

Reference Court has preferred to rely upon the sale instance of a small piece of land, the same rate has not been awarded while determining the market value of the acquired lands. The learned Counsel pointed out that, the said sale deed was executed on 03.01.1997 i.e. prior to about two years of the issuance of Section 4 notification and as such, the notional increase in the market value was liable to be given and accordingly giving the said notional increase and thereafter deducting the 25% of the said amount, the Reference Court has appropriately determined the market value of the acquired lands at the rate of Rs.2000/- per *Are*. The learned Counsel submitted that, it appears to be inadvertent mistake on part of the Reference Court in determining the market value in the another group of appeals at the rate of Rs.1500/- per *Are*. The learned Counsel submitted that, the same criteria needs to be applied for the lands which were the subject matter of the said LAR and the market value of the said lands also needs to be enhanced to Rs.2000/- per *Are*. The learned Counsel further submitted that, though the sale instance at Exh.27 may be pertaining to a small piece of land admeasuring 11 *Are*, the another sale instance at Exh.28 pertaining to the land admeasuring 51 *Are*. The learned Counsel submitted that, 51 *Are* land cannot be held to be a small piece of land. The learned Counsel pointed out that, the acquired lands are

similar in area. The said sale instance was perfectly a comparable sale instance so far as to determine the market value of the acquired lands. The learned Counsel submitted that, though land which was the subject matter of Exh.28 was belonging to Rajewadi, the evidence on record shows that, village Rajewadi and village Dongarpimpla are the adjacent villages and the lands of both these villages are of the same quality and potentiality. The learned Counsel, in the circumstances, prayed for rejecting the appeals filed by the Acquiring Body so far as the market value determined by the Reference Court. Insofar as the award of interest under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification is concerned, learned Counsel fairly conceded for passing appropriate orders in view of the law laid down by the Full Bench of this Court.

7. I have carefully considered the submissions made by the learned Counsel appearing for the respective parties. I have perused both the common judgments and awards, which are impugned in the present appeals. Perusal of the Judgments reveals that, the Reference Court has relied upon two sale instances, which are at Exhs.27 & 28. The Reference Court relying on the said sale instances has determined the market value of the acquired lands at the rate of Rs.2000/-per *Are* in one group of LAR. It is really surprising that, the

same Court has determined the market value of the lands, which were the subject matter of the another group of LAR at the rate of Rs.1500/- per *Are*. I have carefully perused both these judgments. The entire discussion made and the reasoning given by the Reference Court in both the aforesaid judgments is word to word same except the market value. However, without giving much importance to the said aspect, I would prefer to analyse the evidence on record so as to decide whether the market value as has been determined by the Reference Court can be sustained.

8. As noted herein above, the Acquiring Body has strongly objected for determination of the market value at the rate of Rs.2000/- per *Are*. It was the contention that, the market value of the subject lands could not have been determined by the Reference Court on the basis of the small piece of land, which was the subject matter of Exh.27. It appears to me that, the small piece of land cannot be the sole reason for rejecting or for keeping out of consideration the concerned sale instance. It appears to me that, the said sale instance can also be considered for determining the market value of the acquired land for the reason that, it pertains to the same village Dongarpimpla and it is of the period prior to two years of issuance of Section 4 notification. Admittedly, no evidence was

adduced on behalf of the State or by the Acquiring Body. It is, thus, evident that, the only evidence which was before the Reference Court was the oral testimony of the claimants and the two sale instances placed on record by the claimants.

9. It need not be stated that, some guess work is obvious while determining the market value of the acquired land on the basis of the sale instances brought on record for the reason that, it hardly happens that the acquired land and the land which is the subject matter of the sale instance are identical in all respects. In the present matters, the learned Reference Court has relied upon the sale instances at Exhs.27 and 28. The sale instance at Exh.27 pertains to 11 R land situated at village Dongar Pimpla, which was sold on 03.01.1997 for the consideration of Rs.20,000/- i.e. at the rate of Rs.1818/- per *Are,* whereas the sale instance at Exh.28 pertains to land admeasuring 51 *Are* situated at village Rajewadi, which was sold on 19.06.1997 for the consideration of Rs.95,000/- i.e. at the rate of Rs.1862/- per *Are*. While determining the market value of the acquired lands on the basis of the aforesaid sale instances, though some guess work seems to have carried out by the Reference Court, it is evident that, the same has not been appropriately done by the Reference Court.

10. Secondly the Reference Court has not provided any rational in determining the market value on the basis of the same sale instances in one group at the rate of Rs.2,000/- per *Are* and in the another group at the rate of Rs.1500/- per *Are*. As noted herein above, since the only evidence on the basis of which the market value was liable to be determined in the present matters were the aforesaid two sale instances at Exhs.27 and 28. Both the aforesaid sale instances were of the year 1997, whereas the lands which are the subject matter of the present appeals were acquired on 22.04.1999 i.e. after the period of about two years. In the circumstances, though some notional increase is liable to be given in the market value received to the said lands, which were the subject matter of Exhs.27 and 28, the negative allowances would also be obvious for the reason that, the land which was the subject matter of Exh.27 was a small piece of land and was purchased by the adjacent land holder and the land which was the subject matter of Exh.28 was situated at another village Rajewadi. Striking balance in the plus and minus factors attached to the aforesaid lands compared with the lands involved in the present appeals, it appears to me that, the market value of the subject lands can be reasonably determined at the rate of Rs.1600/- per *Are*. I, accordingly, determined the market value of the lands,

which are the subject matter of the present appeals, at the aforesaid rate.

11. As stated earlier, there are two groups of appeals arising out of the two common judgments and awards passed by the Reference Court. In one group, the Reference Court has determined the market value of the acquired land at the rate of Rs.2,000/- per *Are*. In view of the market value as has been determined by this Court at the rate of Rs.1600/- per *Are*, it goes without saying that, the common judgment and award wherein the Reference Court has determined the market value of the acquired lands at the rate of Rs.2000/- per *Are,* the modification will be required to the aforesaid extent and the appeals will have to be allowed to the said extent. Insofar as the second group is concerned, wherein the market value of the acquired lands is determined by the Reference Court at the rate of Rs.1500/- per Are, though the claimants have not preferred any appeal against the said common Judgment and award seeking enhancement in the amount of compensation and the appeal is filed by the Acquiring Body alleging the said compensation to be on higher side, in view of the market value determined of the acquired lands by me at the rate of Rs.1600/- per *Are,* the claimants in the said group of

appeals would be entitle to the enhancement in the amount of compensation at the rate of Rs.100/- per *Are*.

12. The another objection, which has been raised by the acquiring body pertains to the grant of interest by the Reference Court under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification. In view of the law laid down by the Full Bench of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513** and the judgment in the case of **The State of Maharashtra & Ors Vs. Ramesh Tukaram Meshram & Ors, 2018 (1) ALL MR 645**, the interest under Section 28 as well as under Section 34 of the Act can be awarded only from the date of passing of the Award under Section 11 of the Act and not from any prior date. In the circumstances, both the common judgments and awards impugned in the present group of appeals, to the aforesaid extent, will have to be set aside and the interest under Sections 28 and 34 of the Act shall have to be made payable from the date of issuance of the Award under Section 11 of the Act.

13. For the reasons stated above, the following order is passed.

ORDER

1 (i) The market value determined by the Reference Court at the rate of Rs.2,000/- per *Are* in LAR Nos.88 of 2006, 72 of 2006, 74 of 2006, 78 of 2006, 81 of 2006, 82 of 2006, 85 of 2006, 86 of 2006 is reduced to Rs.1600/- per *Are*.

(ii) The interest awarded by the Reference Court in the aforesaid matters under Sections 28 and 34 of the Land Acquisition Act, 1894 from the date of issuance of Section 4 notification or from the date of possession, as the case may be, is set aside: instead, such an interest is made payable from the date of passing of the Award under Section 11 of the Act i.e. from 31.12.2002.

(iii) The Awards in all the aforesaid matters be modified accordingly.

(iv) The claimants in these matters are permitted to withdraw the amount of compensation as per the modified Awards from out of the amount deposited by the Acquiring Body in the present appeals in this Court with proportionate interest accrued thereon.

(v) After payment of the amount of compensation to the respective claimants as per the modified Awards, the amount which may remain in balance, be refunded to the appellant – Acquiring Body with interest accrued thereon.

(vi) First Appeal Nos.2733 of 2017, 2740 of 2017, 2735 of 2017, 2738 of 2017, 2737 of 2017, 2739 of 2017, 2734 of 2017, 2736 of 2017 stand partly allowed in the aforesaid terms.

2 (i) The market value determined by the Reference Court in LAR Nos.90 of 2006, 71 of 2006, 73 of 2006, 75 of 2006, 76 of 2006, 77 of 2006, 79 of 2006, 80 of 2006, 83 of 2006, 84 of 2006, 89 of 2006 at the rate of Rs.1500/- per *Are* is enhanced to Rs.1600/- per *Are*.

(ii) The claimants in these matters are entitled to receive the statutory benefits as well as the interest in accordance with the provisions under the Land Acquisition Act on the enhanced amount of compensation.

(iii) The interest awarded in these matters by the Reference Court under Sections 28 and 34 of the Land Acquisition Act, 1894

from the date of issuance of Section 4 notification or from the date of possession is set aside: instead, such an interest is made payable from the date of passing of the Award under Section 11 of the Act i.e. from 31.12.2002.

(iv) The Awards in all these matters be modified accordingly.

(v) The original claimants in these appeals are permitted to withdraw the amount of compensation as per the modified Awards from out of the amount deposited by the Acquiring Body in the present appeals in this Court, with proportionate interest accrued thereon.

(vi) If the amount deposited by the Acquiring Body falls short to satisfy the modified Awards, the balance amount be deposited by the appellant – Acquiring Body in this Court within the period of six months from the date of this order.

(vii) If the amount deposited is found in excess of amount payable to the claimants as per the modified Awards, the balance amount be refunded to the acquiring body.

(viii) First Appeal Nos.601 of 2015, 596 of 2015, 599 of 2015, 597 of 2015, 598 of 2015, 606 of 2015, 604 of 2015, 603 of 2015, 600 of 2015, 605 of 2015, 595 of 2015 stand disposed of in the aforesaid terms.

(**P.R. BORA, J.**)

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