

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1826 OF 2019

- 1) The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
- 2) The State of Maharashtra,
Through, The Collector,
Osmanabad.
- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

- 1) Gokul Krishnath Bhange,
 - 2) Krishna Tukaram Bhange,
- Both Age Major, Occupation Agri.,
R/o Domgaon Tq. Paranda Dist.
Osmanabad. **...Respondents**

....

WITH

FIRST APPEAL NO.1827 OF 2019

- 1) The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
- 2) The State of Maharashtra,
Through, The Collector,

Osmanabad.

- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

- 1) Nivrutti Rmachandra Khaire,
2) Chhaya Nivrutti Khaire,
All Age Major, Occupation Agriculture,
R/o Domgaon Tq. Paranda Dist.
Osmanabad. **...Respondents**

...

**WITH
FIRST APPEAL NO.1828 OF 2019**

- 1) The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
2) The State of Maharashtra,
Through, The Collector,
Osmanabad.
3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

Ramesh Ambadas Mali,
Age Major, Occupation Agriculture,
R/o Domgaon Tq.Paranda Dist.
Osmanabad. **...Respondents**

...

**WITH
FIRST APPEAL NO.1829 OF 2019**

- 1) The Maharashtra Krushna Valley Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
- 2) The State of Maharashtra,
Through, The Collector,
Osmanabad.
- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

- 1) Harischandra Ramchandra Khaire,
- 2) Nagnath Chhagan Kadam,

Both Age Major, Occupation Agriculture,
R/o Domgaon Tq. Paranda Dist.
Osmanabad. **...Respondents**

...

**WITH
FIRST APPEAL NO.1830 OF 2019**

- 1) The Maharashtra Krushna Valley Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
- 2) The State of Maharashtra,

Through, The Collector,
Osmanabad.

- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

Balkrishna Ramchandra Khaire,
Age Major, Occupation Agriculture,
R/o Domgaon Tq. Paranda Dist.
Osmanabad.

...Respondents

...

**WITH
FIRST APPEAL NO.1831 OF 2019**

- 1) The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.
- 2) The State of Maharashtra,
Through, The Collector,
Osmanabad.
- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist.Osmanabad. **...Appellants.**

VERSUS

- 1) Shrihari Bhimrao Sabale,
- 2) Bhimrao Yashwant Sabale,
Dead Through L.Rs.
- 2/1) Arjun Bhimrao Sabale,

- 2/2) Shrihari Bhimrao Sabale,
 2/3) Muktabai Bhimrao Sabale,
 2/4) Champawati Devu Baraskar,

All Age Major, Occupation Agri.,
 R/o Domgaon Tq. Paranda
 Dist. Osmanabad.

...Respondents

....

**WITH
 FIRST APPEAL NO.1832 OF 2019**

- 1) The Maharashtra Krushna Valley
 Development Corporation,
 Through, Executive Engineer,
 Sina Kolegaon Project,
 Paranda Tq. Paranda Dist.
 Osmanabad.
- 2) The State of Maharashtra,
 Through, The Collector,
 Osmanabad.
- 3) The Special Land Acquisition Officer,
 Paranda Tq. Paranda Dist. Osmanabad.

...Appellants.

VERSUS

Arjun Bhimrao Sabale,
 Age Major, Occupation Agri.,
 R/o Domgaon Tq. Paranda
 Dist. Osmanabad.

...Respondent

...

**WITH
 FIRST APPEAL NO.1833 OF 2019**

- 1) The Maharashtra Krushna Valley
 Development Corporation,

Through, Executive Engineer,
Sina Kolegaon Project,
Paranda Tq. Paranda Dist.
Osmanabad.

- 2) The State of Maharashtra,
Through, The Collector,
Osmanabad.
- 3) The Special Land Acquisition Officer,
Paranda Tq. Paranda Dist. Osmanabad. **...Appellants.**

VERSUS

- 1) Apparao Rama Sabale,
- 2) Rama Babu Sabale,
Both Age Major, Occupation Agri.,
R/o Domgaon Tq. Paranda
Dist. Osmanabad. **...Respondents**

.....

Advocate for Appellants : Mr. A. M. Gaikwad.
Advocate for Respondents : Mr. M. S. Patil.

.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 21-08-2019

ORDER :

1. All these appeals have been filed by the acquiring body challenging only the part of Common Judgment and award passed by reference Court i.e. Civil Judge, Senior Division, Paranda, in LAR Nos.626, 625, 624, 623, 628, 618, 619, 620 and 621 of 2011 on 30-09-2013. Heard common arguments in all these appeals and I deem

it appropriate to decide these appeals by a common reasoning.

2. At the outset, it can be said that, the scope of the appeals is limited to the extent of awarding of interest on the enhanced amount. Heard learned learned advocate for appellants and learned advocate for respondents.

3. The present respondents / original claimants had filed reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') for getting enhancement in the compensation that was granted by Land Acquisition Officer. Claimants were the owner and possessor of lands situated at village Domgaon. The Notification under Section 4 of the Act was published in the Government Gazette on 06-02-1997 and the Notification under Section 6 of the Act was published in the Government Gazette on 16-07-1998. Possession was taken on 17-08-1996. The award was passed by Land Acquisition Officer on 22-03-2002 under Section 11 of the Act. Being dissatisfied with the rate that was granted, the said reference were filed and after taking into consideration the evidence and hearing both sides, the learned reference Court has enhanced the said rate on market value fixed by the Land Acquisition Officer . The interest under Section 28 of the Act has been granted for the first year at the rate of 9 % per annum from

the date of taking possession and thereafter it has been granted at the rate of 15 % per annum. So also interest under Section 34 of the Act has been granted and this is the part which is under challenge.

4. The learned advocate for appellants submitted that, these rates have been wrongly given from the date of possession, when as per the decision of the Full Bench in, *State of Maharashtra Vs. Kailash Shiva Rangari*, reported in *AIR 2016 Bombay 141*, it should be from the date of award.

5. There is substance in the submissions made by appellants. The decision given by Full Bench deserves to be followed, though it has come later in point of time, than the award was passed, in these appeals. Yet, since the appeals are the continuation, the said decision will have to be made applicable. Hence, appeals deserve to be partly allowed as follows ;

ORDER

(i) Appeals are hereby partly allowed.

(ii) The Judgment and award passed by Civil Judge, Senior Division, Paranda in LAR Nos.626, 625, 624, 623, 628, 618, 619, 620, 615 and 621 of 2011 is hereby set aside to the extent of award of interest under Sections 28 and 34 of the Land Acquisition Act and it is modified as follows ;

“(a) Original claimants are entitled to interest under Section 28 of the Land Acquisition Act on the enhanced compensation, solatium and component amount @ of 9 % per annum from the date of award i.e. 22-03-2002 till deposit of enhanced compensation, solatium and component amount in the Court.”

“(b) If this enhanced compensation and solatium amount with interest thereon is not deposited till 22-03-2003, the claimants are entitled to interest @ of 15 % per annum from 23-03-2002 till the date of deposit of entire compensation amount and solatium amount in the Court.”

“(c) Claimants are entitled for interest under Section 34 of the Land Acquisition Act on the compensation amount awarded by Collector @ of 9 % per annum from the date of award i.e. 22-03-2002 till acceptance of compensation amount by claimants.”

(iii) Modified award be drawn accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.