

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

FIRST APPEAL NO.2380 OF 2018

The Executive Engineer,
Minor Irrigation Division, Osmanabad.
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Prakash Mahadeo Gulave,
Age: Major, Occ: Agriculturist,
2. Suresh Mahadeo Gulave,
Age: Major, Occ: Agriculturist,
3. Nandkumar Mahadeo Gulave,
Age: Major, Occ: Agriculturist,
all R/o.- Khamaswadi (Bavi),
Tq- & Dist- Osmanabad.
4. The State of Maharashtra
Through Collector Osmanabad.
5. The Spl. Land Acquisition Officer,
Osmanabad. ...Respondents

WITH

FIRST APPEAL NO. 2379 OF 2018

The Executive Engineer,
Minor Irrigation Division, Osmanabad.
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Sandipan Bajirao Jadhav,
Age: Major, Occ: Agriculturist,
R/o.- Bavi, Tq. & Dist- Osmanabad.
2. The State of Maharashtra
Through Collector Osmanabad.
3. The Spl. Land Acquisition Officer,

Osmanabad.

...Respondents

**WITH
FIRST APPEAL NO. 2381 OF 2018**

The Executive Engineer,
Minor Irrigation Division, Osmanabad.
Through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ...Appellant

Versus

1. Saudagar S/o Ramchandra Dhanke (Died) through
Legal Heirs
 - A. Vanmala w/o Saudagar Dhanke,
Age: Major, Occ: Agriculturist,
 - B. Sagar s/o Saudagar Dhanke,
Age: Major, Occ: Agriculturist,
 - C. Akshay s/o Saudagar Dhanke,
Age: Major, Occ: Agriculturist,
 - D. Supriya d/o Saudagar Dhanke,
Age: Major, Occ: Agriculturist,
all R/o.- Sindphal, Tq.- Tuljapur,
Dist- Osmanabad.
2. The State of Maharashtra
Through Collector Osmanabad. ...Respondents

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Mr. Sudhir G. Bhalerao, Advocate for Appellant.
Mr. S.A. Wakure, Advocate for Respondent Nos.1 to 3
in FA/2380/2018.
Mr. S.A. Wakure, Advocate for Respondent No.1 in
FA/2379/2018.
Mr. S.A. Wakure, Advocate for Respondent Nos.1A to
1D in FA/2381/2018.
Mr. P.M. Kulkarni, AGP for Respondents/State &
SLAO.

...

**CORAM : P.R. BORA, J.
DATED : 18th FEBRUARY, 2019.**

ORAL JUDGMENT:-

. The present common judgment and award is

challenged by the acquiring body only to the extent of the interest awarded by the Reference Court under Section 28 of the Act from the date of issuance of Section 4 notification.

2. Shri Bhalerao, the learned counsel for the acquiring body submitted that in view of the full bench judgment of this Court in the case of **"The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) All M.R. 513"** and the subsequent judgment delivered by the learned Single Judge in the case of **"State & Ors Vs. Ramesh Tukaram Meshram, 2018(3) Mh.L.J. 616"**, the interest under Section 28 of the Act could have been awarded by the Reference Court only from the date of passing of the award under Section 11 of the Act and not from any prior date. The learned counsel in the circumstances prayed for setting aside the common judgment and award to the aforesaid extent.

3. Shri Wakure, the learned counsel appearing for the original claimants conceded the legal position settled by the full bench of this Court in the case of **"The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) All M.R. 513"** which has

(4)

been subsequently followed in the case of "**State & Ors Vs. Ramesh Tukaram Meshram, 2018(3) Mh.L.J. 616**" and submitted for passing appropriate orders.

4. In view of the submissions so made, the following order is passed:

ORDER

i) The common judgment and award impugned in the present appeals stand set aside so far as it relates to award of interest under Section 28 of the Act from 11.09.1994 i.e. from the date of issuance of Section 4 notification; instead such an interest is made payable from the date of passing of the award under Section 11 of the Act i.e. 15.10.1997.

ii) The awards be modified accordingly.

iii) The appeals stand allowed in the aforesaid terms.

(P.R. BORA, J.)

Mujaheed//