

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

**First Appeal NO 3641 Of 2016
(IN L.A.R.NO.558/2010)**

The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Medium Project, Osmanabad.

= APPELLANT

VERSUS

1. Manik S/o Pandharinath Sanap
Age : 54 yrs Occ.: Agril.,
2. Navnath S/o Pandharinath Sanap,
Age : 52 yrs Occ.: Agril.,
3. Vilas S/o Pandharinath Sanap,
Age : 60 yrs Occ. : Agril.,
4. Chatragun S/o Pandharinath Sanap,
Age : 48 yrs, Occ.: Agril.,
5. Popat S/o Pandharinath Sanap,
Age 46 yrs, Occ. Agril,

All R/o : Sawargaon (Ghat),
Tq Patoda, Dist. Beed.
6. The State of Maharashtra,
Through, Collector, Beed.

= RESPONDENTS

Shri A.M.Gaikwad, Adv. for Appellant;
Shri S.B.Choudhari ,Adv. for Resp. No.1 to 5;
Shri S.J.Salgare, AGP for Resp.No.6.

WITH
CROSS OBJECTION NO.5051 of 2018
IN
FIRST APPEAL NO.3641 OF 2016.

1. Manik S/o Pandharinath Sanap,
Age: 56 Yrs Occ. Agril.,

R/o Sawargaon (Ghat) Tal. Patoda,
Dist. Beed.

2. Nawanath S/o Pandarinath Sanap,
Age : 54 yrs, Occ.: Agril.
R/o Sawargaon (Ghat)
Tal. Patoda, Dist. Beed.
3. Vilash S/o Pandharinath Sanap,
Age : 52 yrs, Occ.: Agril,
R/o Sawargaon (Ghat) Tal. Patoda,
Dist. Beed.
4. Chatragun S/o Pandharinath Sanap,
Age : 50 yrs, Occ. Agril.,
R/o Sawargaon (Ghat) Tal. Patoda,
Dist. Beed.
5. Popat S/o Pandharinath Sanap,
Age: 48 yrs, Occ. Agril,
R/o Sawargaon (Ghat) Tal. Patoda,
Dist. Beed.

= **APPELLANTS**
(Respondents in FA)

VERSUS

1. The Maharashtra Krishna Vally
Development Corporation,
Through The Executive Engineer,
Medium Project, Osmanabad(Appellant in
F.A.)
2. The State of Maharashtra,
Through Collector Beed,
Dist. Beed. = Respondents.
(Ori. Res. In
F. A.)

Shri S. B. Choudhari, Adv. for Appellants;
Shri A. M. Gaikwad, Adv. for Resp. No.1;
Shri S. J. Salgare, AGP for Resp.- State

WITH

First Appeal NO 3642 Of 2016
(IN L.A.R.No.563/2010)

The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Medium Project, Osmanabad.

= **APPELLANT**

VERSUS

1. Babu S/O Bhujang Sanap,
Age : 41 yrs, Occ.: Agril.,
2. Gangadhar S/o Bhujang Sanap,
Age : 51 yrs, Occ.: Agril.,
3. Sunanda W/o Gangadhar Sanap,
Age : 46 yrs, Occ. Agril.
4. Nana Bhujang Sanap,
Age: 36 yrs, Occ. Agril,

All R/o Sawargaon (Ghat),
Tq. Patoda, Dist. Beed.

5. The State of Maharashtra,
Through, Collector, Beed.

= **RESPONDENTS**

Shri A. M. Gaikwad, Adv. for Appellant;
Shri S. B. Choudhari ,Adv. for Resp. No.1 to 4;
Shri S. J. Salgare, AGP for Resp.No.5.

WITH

CROSS OBJECTION NO.5246 of 2018

In

FIRST APPEAL NO 3642 OF 2016

1. Babu S/O Bhujang Sanap,
Age. 42 yrs Occ. Agril.,
2. Gangadhar S/o Bhujang Sanap,
Age. 52 yrs, Occ. Agril.,
3. Sunanda W/o Gangadhar Sanap,
Age: 47 yrs, Occ. Agril.,
4. Nana S/o Bhujang Sanap,

Age: 50 yrs, Occ. Agril.,

All R/o Sawargaon (Ghat),

Tal. Patoda, Dist. Beed. = APPELLANTS
(Respondents in FA)

VERSUS

1. The Maharashtra Krishna Vally
Development Corporation,
Through The Executive Engineer,
Medium Project, Osmanabad(APPELLANT
in F.A.)
2. The State of Maharashtra,
Through Collector Beed,
Dist. Beed.**Respondents.**
(Ori. Res. In F. A.)

Shri S. B. Choudhari, Adv. for Appellant;
Shri A. M. Gaikwad, Adv. for Resp. No.1;
Shri S. J. Salgare, AGP for Resp.- State

WITH

**First Appeal NO 3647 Of 2016
(IN L.A.R. No.560/2010)**

The Maharashtra Krushna Valley
Development Corporation,
Through, Executive Engineer,
Medium Project, Osmanabad. = **APPELLANT.**

VERSUS

1. Laxman S/o Dattu Sanap,
Age: 41 yrs, Occu. Agril.
R/o Sawargaon (Ghat), Tq. Patoda,
Dist. Beed.
2. The State of Maharashtra,
Through, Collector, Beed. = **RESPONDENTS**

Shri A. M. Gaikwad, Adv. for Appellant;
Shri S. B. Choudhari ,Adv. for Resp. No.1;

Shri S. J. Salgare, AGP for Resp.- State

WITH

CROSS OBJECTION NO.5053 of 2018
In
FIRST APPEAL NO. 3647 OF 2016

Laxman S/o Dattu Sanap,
Age: 43 yrs, Occu. Agril.
R/o Sawargaon (Ghat),
Tq. Patoda, Dist. Beed.

.... CROSS OBJECTIONER
(Respondent in F. A.)

VERSUS

1. The Maharashtra Krushna Vally
Development Corporation,
Through, Executive Engineer,
Medium Project, Osmanabad.

= (Appellant
in F. A.)

2. The State of Maharashtra,
Through, Collector, Beed,
Dist. Beed.

= **Respondents**
(Ori. Resp. In
F. A.)

Shri S. B. Choudhari, Adv. for Appellant;
Shri A. M. Gaikwad, Adv. for Resp. No.1;
Shri S. J. Salgare, AGP for Resp.- State.

CORAM : P.R.BORA, J.
DATE : 20th February, 2019

ORAL JUDGMENT

1. With consent of learned counsel appearing
for the parties, the present appeals are taken up
for final disposal at admission stage.

2. The claimants have filed the cross-
objections in respective appeals. Learned counsel

appearing for the acquiring body has waived the notice for the acquiring body and learned AGP Shri Salgare waived notice for Respondent Nos.1-State in the Cross-objections. The Cross-objections are also, therefore, taken up for final disposal with consent of the learned counsel appearing for the acquiring body.

3. The present appeals are arising out of the acquisitions made for construction of Wasantwadi Storage tank at village Sawargaon. The common Judgment and Award passed by the court of Civil Judge, Senior Division Beed in LAR No.554/2010 with connected LARs decided on 23rd July, 2014, is challenged in the present appeals as well as the cross-objections.

4. Shri Gaikwad, learned counsel appearing for the acquiring body, submitted that in LAR No. 222/2013, arising out of the same acquisition, compromise was arrived at in Lokadalat held on 25th March, 2017 before the Reference Court and compensation was determined in the said LAR @ Rs. 3,093/- per Are. Shri Gaikwad further submitted that in view of the fact, as aforesaid, the connected appeals, arising out of the same Judgment

and Award, which is impugned in the present appeals, were placed before the Lokadalat held on 8th December, 2018 in the High Court. The learned counsel further submitted that in view of the compromise arrived at previously in LAR No. 222/2013 before the Lokdalat held by the Reference Court, the appeals, which were placed in the Lokadalat held on 8th December, 2018 in the High Court, compromise terms were filed. The learned counsel submitted that in the aforesaid appeals also, cross-objections were filed by the claimants and the cross-objections were also placed for settlement in the Lokadalat. The learned counsel submitted that during the course of hearing before the Lokadalat, it was pointed out that in the impugned Judgment and Award, the Reference Court has wrongly awarded the interest under Section 28 of the Land Acquisition Act, 1894 (for short the said Act), from the date of possession. In view of 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 (FB) it was contended that the impugned Judgment and Award in so far as it relates to grant of interest under

Section 28 of the Act from the date of possession, needs to be modified. The learned counsel appearing for the claimants has consented for such modification. Similarly, it was also agreed between the parties, i.e. the acquiring body and the claimants that in the cross-objections, filed by the claimants, amount of compensation be enhanced @ Rs.3,000/- per Are for the acquired lands and accordingly, the settlement was arrived at. The learned counsel submitted that in the present matters arising out of the same common Judgment and Award, same order needs to be passed. The learned counsel submitted that in view of the fact that in the cross-objections filed in earlier matters, the acquiring body has consented for enhancing the amount of compensation @ Rs.3,000/- per Are, the same will be binding in the present matters also.

5. Shri Choudhari, learned counsel appearing for the claimants, submitted that the interest which has been awarded in the impugned Judgment and Award under Section 28 of the Act from the date of possession, may be modified in view of the law laid down by the Full Bench judgment of this court in

the case referred to above and the claimants may not have any objections there for.

6. In view of the submissions so made, following order is passed, -

ORDER

i. The impugned Judgment and Award in so far as it relates to grant of interest under Section 28 of the Act from the date of possession, stands set aside and instead, such interest is made payable from the date of passing of the Award under Section 11 of the Act, i.e. 5.11.2007;

ii. The appellants - claimants are held entitled to receive the compensation at the enhanced rate of Rs.3,000/- per Are for their acquired lands;

iii. The appellants claimants are also held entitled for the statutory benefits under the Act on the enhanced amount of compensation;

iv. The appellants claimants are also entitled to receive interest on the amount of enhanced compensation under

Section 28 of the Act from the date of passing of the Award, i.e. from 5.11.2007.

v. The Award be modified accordingly.

vi. The appellants claimants are at liberty to withdraw the amount deposited by the acquiring body in this court in the present appeals.

vii. The appeals and the cross-objections thus stand allowed in the aforesaid terms. Pending civil application, if any, stands disposed of.

(P.R.BORA)
JUDGE

bdv/JT.
title-Mahesh