

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

WRIT PETITION NO.7318 OF 2018
WITH
WRIT PETITION NO.7399 OF 2018

KAUSHALYABAI SUKHLAL BAJAJ THROUGH GPA ASHOK SUKHLAL
BAJAJ
VERSUS
THE UNION OF INDIA AND OTHERS

...

Advocate for the Petitioner : Shri V.J.Dixit, Senior Advocate h/f Shri
Jethliya Dhiraj R.

Advocate for Respondents 1, 3 and 4 : Shri B.B.Kulkarni, Standing
Counsel.

AGP for Respondent 2 : Shri N.T.Bhagat.

Advocate for Respondent 5 : Shri S.K.Chavan h/f Shri V.H.Solanke.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th April, 2019

Per Court:

1 This is a motion for speaking to the minutes of the order
dated 03.04.2019 passed by this Court.

2 The learned senior advocate submits that while this Court
passed the above stated order, it was at the spur of the moment that the
Petitioner informed the learned senior advocate that the rate of interest
would be 6% per annum. The amount of Rs.9 lac as interest was quoted
and the Petitioner consented for reducing the burden upon Respondent
No.5, to Rs.5 lac.

3 By this motion, it is submitted that even if the rate of interest is calculated at 6% per annum, the amount of interest will be about Rs.18 lac. So also, the National Highways Act, 1956 provides under Section 3-H(5) that if the amount is determined under Section 3-G by the Arbitrator, in excess of the amount determined by the competent authority, the Arbitrator may award the interest at the rate of 9% per annum on such excess amount from the date of taking possession under Section 3-D till the date of actual deposit thereof.

4 Shri Kulkarni, learned standing counsel for the Union of India, submits that the acquiring body itself calculates the interest at a particular rate, which cannot be compared or equated to a situation under Section 3-G of the National Highways Act, 1956. So also, the interest at the rate of 9% per annum is a ceiling and the language used in sub-section (5) of Section 3-H of the National Highways Act, 1956 is that the Arbitrator may award interest at the rate of 9% per annum. It is, therefore, left to the discretion of the Arbitrator to decide the quantum of interest with the ceiling of 9% per annum.

5 The learned senior advocate then refers to Section 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, to contend that the Collector is under a mandate to pay the amount awarded with interest thereon at the rate of 9% per annum from the time of taking over possession till the

compensation is actually paid. The proviso thereunder prescribes the rate of interest at 15% per annum, if such compensation is not paid within one year from the date on which the possession is taken.

6 Shri Kulkarni responds by submitting that the Department would also calculate the interest as is legally payable and the Petitioner would be compensated. As this Court has directed Respondent No.5 to pay the amount of Rs.5 lac as a part of the interest component, this would be in addition to the interest paid by the acquiring body.

7 In view of the above, I deem it appropriate to add the following sentence at the end of paragraph 8 of the order dated 03.04.2019 :-

"The amount of interest, which Respondent No.5 has been directed to pay, will not be included in the compensation amount with accrued interest, which the acquiring body has to pay to the Petitioner."

8 The order dated 03.04.2019 be, accordingly, corrected and uploaded. The motion is, accordingly, disposed off.