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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1089 OF 2015

Kiran s/o Ramrao Hivare
Age 15 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1090 OF 2015

Ravi s/o Dattatrya Hivare
Age 33 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1091 OF 2015

Ram s/o Govind Hivare
Age 79 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1092 OF 2015

Deepak s/o Dattatry Hivare
Age 37 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1093 OF 2015

1] Manmath s/o Yadav Shivpuje
Age 54 years, Occ. Agril.

2] Prabhakar s/o Yadav Shivpuje
Age 70 years, Occ. Agril.

Both R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellants

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1094 OF 2015

Ghudan s/o Shafiyoddin Sayyad
Age 60 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1095 OF 2015

Govind s/o Dattatrya Hivare
Age 36 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur

Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

.....

Mr. N. V. Gaware, Advocate h/f Mrs. P. G. Sontakke, Advocate for appellants
Mr. S. S. Dande, A. S. Shinde and A. V. Deshmukh, Assistant Government Pleaders for respondents 1 and 2
Mr. R. N. Dhorde, Senior Advocate i/b Mr. B. R. Surwase, Advocate for respondent No. 3

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WITH
FIRST APPEAL NO. 2664 OF 2016

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

Versus

1. Sayyed Ghudan Shaffiuddin
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2665 OF 2016

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

Versus

1. Manmath Yadav Shivpuje
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. Prabhakar Yadav Shivpuje
Age: major, Occup: Agriculturist
R/o:- ahmadpur Tq. Ahmadpur Dist. Latur

3. The S.L.A.O (Purna Project) Latur

4. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2666 OF 2016

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

Versus

1. Kiran Ramrao Hiware
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2667 OF 2016

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

Versus

1. Govind Dattatraya Hiware
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2668 OF 2016

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

Versus

1. Ravi Dattatraya Hiware
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2669 OF 2016

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

Versus

1. Dipak Dattatraya Hiware
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

WITH
FIRST APPEAL NO. 2670 OF 2016

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

Versus

1. Ram Govind Hiware
Age: Major, Occup: Agriculturist
R/o :- Ahmadpur Tq. Ahmadpur, Dist. Latur.

2. The S.L.A.O (Purna Project) Latur

3. The State of Maharashtra
Through the Dist. Collector, Latur ...Respondents

…..

Mr. R. N. Dhorde, Senior Advocate i/b Mr. Sudhir G. Bhalerao, Advocate for appellants
Mr. N. V. Gaware, Advocate h/f Mrs. P. G. Sontakke, Advocate for respondents - claimants
Mr. S. S. Dande, A. S. Shinde and A. V. Deshmukh, Assistant Government Pleaders for respondent- State

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WITH
FIRST APPEAL NO. 1096 OF 2015

Madhav s/o Bhimrao Menkudle
Age 60 years, Occ. Agril.

R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1097 OF 2015

Anil s/o Santram Bodke
Age 37 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1098 OF 2015

Kalyan s/o Bhimrao Menkudle
Age 60 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1099 OF 2015

Shaikh Abdula Shaikh Alisahab
Age 40 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1100 OF 2015

Shaikh Afsar Shaikh Yusufoddin
Age 45 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur ...Respondents

WITH
FIRST APPEAL NO. 1101 OF 2015

Bapu Mahadu Bhinge (Died)
Through L.Rs.

1) Tukaram s/o Bapurao Bhinge
Age 40 years, Occ. Agril.

2) Sukumar w/o Waman Depe
Age 56 years, Occu. Agril

3) Madhav s/o Bapurao Bhinge
Age 51 years, Occu. Agril

4) Shila w/o Govind Depe
Age 49 years, Occu. Agril

5) Mangal Pandurang Potaphale
Age 46 years, Occu. Agril

6) Yeshwant s/o Bapurao Bhinge
Age 41 years, Occu. Agril

7) Shivkanya D/o Bapurao Bhinge
Age 21 years, Occu. Education

All R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,

At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1102 OF 2015

Tryambak Bapurao Menkudle (Died)
Through L.Rs.

Anil s/o Tryambak Menkudale
Age 40 years, Occ. Agril/Business
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1103 OF 2015

Sayyad Ghudan Shafiyoddin
Age 46 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1104 OF 2015

Vishwanath Bapurao Menkudle
Age 45 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1105 OF 2015

Bhausaheb s/o Piraji @ Bapurao Shelke
Age 45 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1106 OF 2015

Meer Jawadali Meer Akabarali
Age 44 years, Occ. Agril.

R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1107 OF 2015

1] Ramrao s/o Tukaram Sarole
Age 52 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur

2] Dnyanoba s/o Ramrao Badgire
Age 52 years, Occ. Agril.
R/o Nandura Tq. Ahmadpur
Dist. Latur ...Appellants

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation Division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1108 OF 2015

Nasruddin s/o Ajimsab Shaikh
Age 30 years, Occ. Agril.

R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

WITH
FIRST APPEAL NO. 1109 OF 2015

Ashok s/o Santram Bodke
Age 40 years, Occ. Agril.
R/o Ahemadpur Tq. Ahmadpur
Dist. Latur ...Appellant

Versus

1] The State of Maharashtra
Through the Dist. Collector, Latur

2] The Spl. Land Acquisition Officer,
[Purna Project] Latur

3] The Executive Engineer
Latur Minor Irrigation division,
At Latur. ...Respondents

.....

Mr. N. V. Gaware, Advocate h/f Mrs. P. G. Sontakke, Advocate for appellants
Mr. S. S. Dande, A. S. Shinde and A. V. Deshmukh, Assistant Government Pleaders for respondents 1 and 2
Mr. R. N. Dhorde, Senior Advocate i/b Mr. R. C. Patil, Advocate for respondent no. 3

.....

WITH
FIRST APPEAL NO. 3293 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as
appellants no. 2 and 3)

Versus

Nasroddin Ajimsab Shaikh
Age 31 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3294 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as
appellants no. 2 and 3)

Versus

Mir Javedali Mir Akbarali
Age 44 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur

Dist. Latur

WITH
FIRST APPEAL NO. 3295 OF 2017

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra
   Through the Collector,
   Latur

3. The Special Land Acquisition Officer,
   Purna Project, Latur ...Appellants

   (Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Bapu Mahadu Bhinge (Died)
Through- L. R.

i. Tukaram Bapurao Bhinge
   Age 39 years, Occ – Agri
   R/o Ahmedpur, Tq. Ahmedpur
   Dist. Latur

ii. Sukumar Waman Depe
   Age 64 years, Occ- Agri
   R/o Kopra, Tq. Ahmedpur
   Dist. Latur

iii. Madhav Bapurao Bhinge
   Age 59 years, Occ- Agri
   R/o Ahmedpur, Tq. Ahmedpur
   Dist. Latur

iv. Sheela Govind Depe
   Age 58 years, Occ-Household
   R/o Penur, Tq. Loha, Dist. Nanded

v. Mangal Pandurang Potphale
   Age 54 years, Occ-Agri
   R/o Ahmedpur, Tq. Ahmedpur
   Dist. Latur

vi. Yashwant Bapurao Bhinge
Age 49 years, Occ-Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

vii. Shivkanya Bapurao Bhinge
Age 29 years, Occ-Household
R/o Ahmedpur, Tq. Ahmedpur

WITH
FIRST APPEAL NO. 3296 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as
appellants no. 2 and 3)

Versus

Shaikh Abdulla Shaikh Alishab
Age 40 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3297 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Madhav Bhimrao Menkundale
Age 68 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3298 OF 2017

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 3 and 4 transposed as appellants no. 2 and 3)

Versus

1. Ramrao Tukaram Sarole
Age 60 years, Occ – Agri
R/o Shirur, Tq. Ahmedpur
Dist. Latur

2. Dnynoba Ramrao Badgire
Age 60 years, Occ-Agri
R/o Nandura, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3299 OF 2017

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Kalyan Bhimrao Menkudale
Age 68 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

<u>WITH</u>
<u>FIRST APPEAL NO. 3311 OF 2017</u>

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Sayyad Ghudan Shafiyoddin
Age 48 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

<u>WITH</u>
<u>FIRST APPEAL NO. 3312 OF 2017</u>

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as
appellants no. 2 and 3)

Versus

Anil Santram Bodke
Age 45 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3313 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as
appellants no. 2 and 3)

Versus

Vishwanath Bapurao Menkudale
Age 31 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3314 OF 2017

1. The Executive Engineer Minor Irrigation

Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Bhausaheb Piraji @ Bapurao Shelke
Age 53 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3315 OF 2017

1. The Executive Engineer Minor Irrigation
Division, Latur

2. The State of Maharashtra
Through the Collector,
Latur

3. The Special Land Acquisition Officer,
Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Ashok Santram Bodke
Age 48 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

WITH
FIRST APPEAL NO. 3316 OF 2017

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra Through the Collector, Latur

3. The Special Land Acquisition Officer, Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Trambak Bapurao Menkudale (Died) through his L.Rs.

Anil s/o Trimbakappa Menkudale
Age 44 years, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

<u>WITH</u>
<u>FIRST APPEAL NO. 3317 OF 2017</u>

1. The Executive Engineer Minor Irrigation Division, Latur

2. The State of Maharashtra Through the Collector, Latur

3. The Special Land Acquisition Officer, Purna Project, Latur ...Appellants

(Respondents no. 2 and 3 transposed as appellants no. 2 and 3)

Versus

Shaikh Afasar s/o Shaikh Yusufoddin
Age Major, Occ – Agri
R/o Ahmedpur, Tq. Ahmedpur
Dist. Latur

.....

Mr. R. N. Dhorde, Senior Advocate i/b Mr. Sunil V. Kurundkar, Advocate for appellants
Mr. S. S. Dande, A. S. Shinde and A. V. Deshmukh, Assistant Government Pleaders for State
Mr. V. D. Sapkal, Advocate h/f Mr. L. C. Patil and Mr. P. G. Sontakke, Advocates for respondent- claimants

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WITH
FIRST APPEAL NO. 3431 OF 2011

Bharat s/o Manohar Reddy
Age – 48 yrs, Occu. Agri
R/o Ahmedpur, Tq. Ahmedpur,
Dist. Latur ...Appellant

Versus

1. The State of Maharashtra Through the Collector, Latur

2. Special Land Acquisition Officer, Purna Project, Latur

3. The Executive Engineer, Minor Irrigation Division, Latur ...Respondents

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Mr. S. S. Halkude, Advocate for appellant
Mr. R. N. Dhorde, Senior Advocate i/b Mr. Sangle Shirish G., Advocate for respondent No. 3
Mr. S. S. Dande, Assistant Government Pleader for respondent-State

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WITH
FIRST APPEAL NO. 654 OF 2016

1. The Executive Engineer,
Minor Irrigation Division, latur
(Under the Godavari Marathwada
Irrigation Development corporation
Ltd, Aurangabad)

2. The State of Maharashtra Through
the Collector, Latur

3. Special Land Acquisition, Purna
Project, Latur ...Appellants

Amendment carried out as per Court's order
dated 11-12-2015, in Civil Application no. 16146/2015
in First Appeal St. no. 23229/2012
And
(Respondent no. 2 & 3 is transposed as Co-appellants no. 2 & 3)

Versus

Bharat s/o Manohar Reddy
Age – 45 yrs, Occu. Agri
R/o Ahmedpur, Tq. Ahmedpur,
Dist. Latur ...Respondent

.....

Mr. R. N. Dhorde, Senior Advocate i/b Mr. Sangle Shirish G., Advocate for appellant
Mr. S. S. Dande, Assistant Government Pleader for State
Mr. S. S. Halkude, Advocate for respondent/sole

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[CORAM : SUNIL P. DESHMUKH AND
R. G. AVACHAT, JJ.]

DATE : 16th SEPTEMBER, 2019

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.):

1. First appeals bearing No. 1089 of 2015 to 1095 of 2015 preferred by the claimants and first appeals bearing No. 2664 of 2016 to 2670 of 2016 preferred by the acquiring body – Godavari Marathwada Industrial Development Corporation (GMIDC) are against judgment and award dated 30th December, 2014 passed by reference court in land acquisition references

bearing No. 675 of 2008 to 681 of 2008 and would be referred to as Group I.

2. Group II, comprises first appeals bearing No. 1096 of 2015 to 1109 of 2015 preferred by claimants and bearing No. 3293 of 2017 to 3317 of 2017 preferred by acquiring body-GMIDC against judgment and award dated 31st December, 2014 in land acquisition references bearing No. 727 of 2008 to 736 of 2008, 292 of 2009, 321 of 2009, 325 of 2008 and 327 of 2008.

3. Third set, first appeal bearing No. 3431 of 2011 preferred by claimants and first appeal No. 654 of 2006 preferred by acquiring body - GMIDC against judgment and award dated 20th January, 2011 of reference court in land acquisition reference No. 453 of 2008 would be hereinafter referred to as Group III.

4. Learned advocates for the parties draw attention to that lands are acquired for the same project. Acquisition is contemporaneous. Lands are from same place and have close proximity. Evidence adduced is in respect of lands from same place. It would be conducive to take into account entire evidence available for determination of compensation. Learned advocates for the parties have addressed the matters accordingly.

5. Thus, these three groups of first appeals are being decided

together under a common judgment as notifications under section 4 of the Land Acquisition Act, 1894 [hereinafter "the LA Act"] are issued contemporaneously and lands of the claimants have been acquired for the same project by the State for GMIDC, known as Kalegaon Storage Tank.

6. Notifications under section 4 of the LA Act in respect of lands of claimants under aforesaid three groups had been published in close proximity *viz;*

a. For groups I and III, consisting of portions / areas in lands bearing survey No. 257, 274, 275 and 202 from Ahmedpur, notification was published on 11th February, 2007.

b. For group II, comprising lands Survey No. 241, 242, 245 and 246, notification had been published on 7th July, 2007.

7. The special land acquisition officer had, under his common award dated 5th February, 2008 for lands in Groups I and III had granted compensation to the claimants in Group I @ ₹ 3,74,000/- per *hectare* whereas granted compensation to claimant in Group III @ ₹ 8,00,000/- per *hectare*. The special land acquisition officer under his award dated 6th May, 2008 had

granted compensation to the claimants in Group II @ ₹ 7,40,000/- per *hectare* for non agriculture purpose use lands and @ ₹ 3,80,000/- per *hectare* for other lands.

8. The reference courts, from the pleadings, had framed issues for determination to the effect *viz; (I) Do claimants prove that acquisition compensation granted by the Special Land Acquisition Officer is inadequate ?, (II) As to whether the claimants could prove on the date of section 4 notification, their lands would have fetched more market value than that granted by the Land Acquisition Officer and / or what would be the market value ?, (III)Whether the claimants are entitled to enhanced compensation as demanded by them ? and (IV) What order ?*

9. The courts have decided all the issues together. It had been noted by the courts that the State and the acquiring authority had not tendered any evidence and there is nothing placed by them on record save written statements.

10. It had been noted by the courts that method employed for determining market price with reference to classification of land for land revenue has not been approved by the courts referring to *"Raja Bhairuvendra Narayan Bhoop v/s Collector Golpar, AIR 1987 Guwahati*

51.

11. Reference courts, had referred to evidence of Anil Phulari, valuer and N. G. Patil, tree valuer, and considered, *inter alia,* that it was without, pleadings or following proper procedure and was without material.

12. It had been noticed by reference courts that evidence shows that the lands were within municipal limits and also gives indication of that there are some developments near acquired lands. The lands indeed had non agriculture potentiality and this aspect had been ignored by the land acquisition officer. The courts had referred to that the acquired lands were situated at a distance of about one and half to two kilometer from Ahmedpur main town and were at a distance of 500 meters from Ahmedpur-Ambajogai state highway. Laxman Paikrao from office of Taluka Inspector of Land Records had stated that from some acquired lands, roads to Jintur and Ambajogai pass through.

13. The courts referring to that while the claimants in groups I and II, referring to certain sale deeds, claim rate per square foot to be ranging between ₹ 115/- and ₹ 397/-, yet had demanded rate of ₹ 1750/- per square foot, more than four times than the highest rate, considered that demanded rate cannot be granted.

So is the case in group III while claimant had demanded rate of ₹ 87,50,000/- per *hectare*.

14. The reference court had enhanced compensation to lands of the claimants in Group I directing to pay @ ₹ 100/- per square foot under award dated 30th December, 2014, giving benefit of section 23 (1-A) and 23 (2) of the LA Act and directing to pay interest @ 9% p.a. for first year from 11th February, 2007 and @ 15% p.a. thereafter till payment of compensation. In respect of lands of claimants in Group II, reference court had determined compensation rate at ₹ 115/- per square foot for the references bearing No. 732 of 2008, 734 of 2008, 736 of 2008 and 292 of 2009 and in respect of rest of the references @ ₹ 100/- per square foot, giving similar benefits and interest as given to the claimants in Group I. Reference court had enhanced compensation to land under group III @ ₹ 21,78,966/- per *hectare* corresponding to approximately ₹ 21/- per square foot with similar other benefits and interest as in other two groups.

15. As in the reference petitions, common contentions of the claimants in all their appeals are to the effect that their acquired lands are situated within the limits of Ahmepur municipal council. Their lands enjoy prominent and unique situation and are at

important locations. Latur-Nagpur road passes from about 700 feet distance and Sawarkar Chowk (Ahmedpur) to Ambajogai road is at a distance of 100 feet. It is a fully developed area, from commercial, residential, industrial and educational point of view. Acquired lands are adjacent to 132 KV sub station. Village of the claimants comes under command area of Balaghat Shetkari Sahakari Sakhar Karkhana and Jai Jawan Jai Kisan Shetkari Sahakari Sakhar Karkhana. These factories are hardly 10 to 20 kms away from their village. Lands are situated close to *gaothan* of Ahmedpur. Population of Ahmedpur is about 1,00,000.

16. Ginning factory belonging to Bharat Reddy in Survey No. 202 acquired under the proceeding, is adjacent to other acquired lands. Non agriculture use permissions are granted to adjacent lands, *inter alia,* bearing Survey No. 241/1 belonging to Ramrao Sarole (a claimant) and from 1998 commercial purpose use is also allowed. Acquired lands are similar to said lands. District Industry Center has given permission to Ramrao Sarole to run small scale industry and he has developed business in the name “Mahesh Stone Crusher”. He was paying royalty up to ₹ 60,000/- per year and was also paying sale tax. Surrounding area is fully developed. Anil Bodke (also a claimant), had been given

permission for non agriculture use of land bearing Survey No. 241/1 in 1989 and he is using said land for commercial purpose and running two stone crushers and a hot mix plant. Bhausaheb Shelke had also been issued non-agricultural use permission in 1998.

17. Ahmedpur is a big city in Marathwada, it is a taluka. There are offices of Union as well as State Governments. Tehsil office, municipal council, Panchayat Samiti, Zilla Parishad, police station, offices of irrigation, public works, Taluka Inspector of Land Records, environment departments, MSEB, Post office, Telehpne office, APMC, twenty five nationalized and co-operative banks, sawmills, S.T. workshop, Yashwant college, other colleges *viz;* education, agriculture, arts, commerce, etc. D. Ed. College, Information Technology College are in the vicinity of the acquired lands. There are big, industries in co-operative sector like spinning mills, shopping malls and other factories. Cinema theatre and Hanuman temple are at a close distance from the acquired lands. Various private hospitals and commercial complexes, shops, hotels, residential colonies, *viz;* Saraswati etc. have come up on the sides of the acquired lands. Land under acquisition is in city development zone. Development of Ahmedpur town had been in the direction of acquired lands.

Ahmedpur town is developing commercially, business-wise, socially, culturally and administratively. Latur is a big market place which is just at a distance of 60 km.

18. The acquired lands are situated in Ahmedpur. Ahmedpur is a prominent and renowned education center. Lot of educational institutions have come up in Ahmedpur. Large number of hostels had come up for accommodation of students taking education in the renowned institutions situated at Ahmedpur. Quite a few parents of students purchased plots in the newly developed area. Number of project affected persons from surrounding area were interested in purchasing plots for their re-settlement and business. There had been land plotting of the area close to the acquired land and plots were being sold @ over ₹ 100/- per square foot. It has been developed area fetching more than market price.

19. All civic amenities were available to the people *viz;* bus transport, private buses, communication, telephone, wireless etc. Municipal council has provided primary facilities like water, roads, lights etc. near the acquired lands.

20. The lands in the neighbourhood in the town have always greater potential value. Acquired lands of the claimants have

better non agriculture potentiality.

21. The claimants, *inter alia,* have referred to view of one Roshan Nanawati and the importance of aspects and factors for determining potentiality.

22. Special land acquisition officer had awarded compensation with reference to land revenue assessment of two hundred years before by *Nizam* state, ignoring its NA potentiality and developments in the surrounding area. The lands were having high NA potentiality, the government had levied special charges and cess. The land is being used purely for non agriculture purpose. The land acquisition officer had also not considered ready reckoner rates of ₹ 11,50,000/- per *hectare*. It is claimed that sale instances considered by land acquisition officer were not genuine and were the instances of low value of the property shown in order to escape liability of payment of stamp duty and registration charges.

23. It has been common contention of the claimants that the Special Land Acquisition Officer had passed award behind their back and the same has been arbitrary. Awards had been passed without giving any opportunity of hearing to them. Meagre compensation had been granted by him, whereas market value

of the lands on the date of acquisition had been on far higher side. Compensation by Special Land Acquisition Officer had been without reference to the developments made by claimants over the lands as well as surrounding developments. The award had been passed on assumptions and presumptions. Neither spot inspection had been carried out nor any local enquiry had been made. Special Land Acquisition Officer had not considered prevailing market value of lands, nor NA potentiality, developments made, available civic amenities were considered. Reference courts as well have missed out on many vital aspects and factors.

24. While one of the claimants had demanded ₹ 35,00,000/- per *Acre*, however, special land acquisition officer had granted very inadequate compensation at the rate of ₹ 8,00,000/- per *hectare* to him, though it had been observed by him that the land is being used for industrial purpose.

25. It is along side referred to that they had accepted land acquisition compensation awarded by special land acquisition officer, under protest and further that all consequential, ancillary and incidental benefits arising from enhanced compensation be given to them.

26. Developments are rapidly taking place around the acquired lands. Market value of the lands and plots nearby acquired lands is increasing day by day and prices of lands in the vicinity are increasing by 50% per year. Plots are being sold in the vicinity @ ₹ 1750/- per square foot. The claimants, as such, have demanded compensation @ ₹ 1,750/- per square foot and the super structures thereon.

27. Lands called for valuation as non agriculture use lands and a detailed valuation report in respect of the same had been prepared by expert and experienced government approved valuer Anil Phulari and the same had been submitted. Reference courts have erred in discarding evidence of valuers.

28. It is contended, the special land acquisition officer and the reference courts ought to have considered all the factors and aspects while determining market value of the acquired lands, however, have missed out on the same and have awarded inadequate compensation.

29. The State and the acquiring body have resisted the claimants' claim contending that their demands are baseless and imaginary. Demands are high and are unrealistic. The lands under acquisition were neither developed nor were abutting any

tar road. The claimants ought to have proved facts and grounds in their references. The references are not within limitation. Reliefs in respect of section 4 notification are denied. It is contended that after notification under section 4, declaration under section 6 and notice under section 9 of the Act, claimants had not raised any objection nor adduced documentary proof. Claimants had not produced any documentary, cogent and consistent evidence regarding fertility, quality, productivity and potentiality of the acquired lands. It has been contended that acquired lands are of medium quality and are dry lands from interior area. The lands were not black cotton soil. Claimants were taking only *Kharip* crop. There is no evidence with regard to annual income fetched by the acquired lands.

30. Land acquisition officer had visited the spot of acquired lands and there had been joint measurement. The land acquisition officer had verified surrounding circumstances and vicinity and location. The State contends that there had been no NA potentiality to surrounding area nor there was any NA order obtained by the claimants. Taking into consideration quality, quantity, fertility, productivity and location the land acquisition officer had passed award.

31. The claimants are not certain about the market price of

the land on material date of notification under section 4 of the LA Act nor the claimants are entitled to any enhanced compensation. Claimants had not produced any sale instance from the village of acquired land. It is contended that claimant had not adduced any documentary evidence regarding structure, *bandh*, well, trees, etc. Claims about developments are baseless. Reference to the same in claim petition is without any material.

32. It is denied that land acquisition officer had awarded inadequate compensation. Compensation awarded on *hectare* basis is proper. Land acquisition officer had also obtained sale instances around material dates and had fixed prices as per prevailing market rate on the date of the notification. It is contended that the land acquisition officer has determined land acquisition compensation taking all the relevant factors into account. He had followed proper procedure.The rate at which the compensation has been granted by Special Land Acquisition Officer is proper and reasonable.

33. Case of the acquiring body is that there is a vast gap between enhancement in compensation in groups I and II granted by reference court and the award by reference court dated 30th November, 2010 in reference No. 454 of 2008 and award dated 20th January, 2011 in reference No. 453 of 2008 of

group III while the lands are placed far off and away from the hub town and even from the lands considered under aforesaid two awards. The acquiring body, however, purports to concede to the position claimed by claimants about NA potentiality of lands.

34. It had been denied that the lands had been acquired under private negotiations. At the time of acquisition, though, acquired lands fell in industrial area and have non-agriculture potential, yet, those were not developed nor they were abutting any tar road and, thus, opposed the claim.

35. In respect of third group, it is contended that the claimant had given his consent for acquisition and had stated before the Land Acquisition Officer that he was not going to claim any rental compensation. Question of having possession by private negotiation does not arise. The burden is entirely on the claimant to prove the fact about rental compensation and/or handing over possession before acquisition.

36. Compensation awarded is most reasonable, proper and adequate in respect of acquired lands and the claimants have withdrawn the award amount. Award by special land acquisition officer is proper and reasonable, enhancement demanded is very steep and untenable and is unsupported.

37. Land acquisition compensation rates demanded by claimants are denied stating that no documentary evidence had been shown about that the lands would fetch rate of ₹ 1750/- per square foot.

38. It is submitted that the demand made by the claimants are unreasonable and unsupported and, as such, had requested to dismiss the appeals by claimants and allow the appeals by acquiring body.

39. As such, following points arise for determination -

A. *Whether claimants prove, market value of lands would be as demanded by them ?*

B. *Whether evidence would bear market value of the acquired lands as granted by reference courts ?*

C. *Whether the direction of reference courts for payment of interest on compensation from the date of notification under section 4 of the Land Acquisition Act would be sustainable ?*

40. Genesis of all the matters is in acquisition proceedings for "Kalegaon Storage Tank" by the State for GIMDC. Proceedings for acquisition of lands under these matters were initiated in very close proximity. Notification for acquisition of lands under

Groups I and III had been published in village on 11th February, 2007 i.e. under the same notification. For the lands under Group II, it was published in village on 7th July, 2006. In each of the groups, one of the claimants has been examined. Witnesses have been common in the matters *viz;* valuer, special land acquisition officer, executive engineer, officer from the office of the Taluka Inspector of Land Records, and Tax Inspector from the municipal council, Ahmedpur. Albeit, in group III only claimant and valuer have been examined. Sale deeds produced on record have been relied on by the claimants.

41. Lands are from the same place and were being acquired contemporaneously. Thus, parties have preferred to address the matters together and have concurred on that evidence on record would be considered for determination of market value of the acquired lands. Learned advocates, thus, have addressed the matters accordingly together in all the groups. Learned advoctes for the claimants have relied on and have concurred with the submissions on claimants' behalf. Mr. Halkude, learned advocate, has referred to and relied on evidence adduced in other groups in addition to that in Group III and canvassed submissions accordingly and concurred with submissions for enhancement of market value as in other two groups, the lands under acquisition

being for the same project.

42. Mr. Gaware, Mr. Sapkal, Mr. Haklude, learned advocates appearing for claimants submit that the acquired lands of the claimants are situated within limits of Ahmedpur municipal council and are in developing area. Their locational importance would have to be properly appreciated. Acquired lands are situated at a distance of 700 feet on the western side of Latur-Nagpur state highway. It leads to Savarkar Chowk to Ambagojai road, which is a fully developed area for commercial, residential, educational and industrial purposes. The lands are adjacent to 132 KV electricity sub station. Ahmedpur-Ambajogai-Beed highway is about 100 feet from Yashwant College. Ahmedpur-Dhalegaon-Gangakhed-Parbhani road passes through survey No. 241. MIDC is at a distance of about 1 km on the northern side. All these aspects ought to have been properly considered. They reiterate case as pleaded in reference petitions.

43. Maharashtra Government had acquired 1200 *hectare* land for Kalegaon and Ahmedpur storage tank in the year 1997-98 from western side of the acquired lands.

44. Learned advocates refer to NA permission granted in 1998 for commercial purpose to one Ramrao Tukaram Sarole and a

certificate to him to run small scale industry. So is the case with Anil and Ashok Bodake who had got NA permission in 1989. Bhausaheb Piraji Shelke as well had been given NA permission. They were running stone crushers and hot mix plant. It is pointed out that Bharat Kumar Reddy as well is having NA permission, and had been running ginning factory.

45. Mr. Gaware, vehemently submits that it cannot be disputed that the lands have non agricultural potential value and it is an accepted position as would emerge from record. Circumstances warrant that valuation ought to take into account - *present use of acquired land, future usefulness of the land, special suitability for different purposes, viz; residential, commercial etc.* and *better layouts*. Near the acquired lands, there is ginning factory developed by one of the claimants, Bharat Manohar Reddy in survey No. 202, concerned in Group III, which is adjacent to the acquired lands.

46. He submits that formula of Roshan Nanawati for valuation would be pertinent to be referred to, *viz;* - *condition and situation of site, user to which land is put or is reasonable capable of being put, its suitability for building purposes, its proximity to residential, commercial and industrial areas, educational, cultural or medical institutions, Existing amenities*

such as, water, road, electricity and drainage and possibility of their future expansion and *whether the nearby town is a developing or prospering town with prospects of development scheme*. All these factors, according to him, create NA potentiality in the acquired land.

47. Learned advocates for the claimants submit that there is great demand of plots for residential and commercial purposes. Ahmedpur city is becoming a hub of education and, as such, there is great demand for residences and Ahmedpur has been traditionally a commercial place.

48. Learned advocate for the claimants Mr. N. V. Gaware has with quite some vehemence submitted that the land acquisition reference court has unequivocally found that N.A. potentiality subsists. A notification had been issued six years down after 2000. The lands have been getting NA permissions. A sale instance of the year 2000 has been produced depicting rate of ₹ 208/- per square foot. The range of sale deed shows that the going rates had been up to ₹ 266/- per square foot till 2005. Even going by average, coupled with NA potentiality, rates demanded by the claimants ought to have been considered.

49. Learned advocates for claimants submit that sale deeds,

which are placed on record show prices from ₹ 178/- per square foot to ₹ 397/- per foot. It is contended that in the year 2000, price of ₹ 397/- per square foot could have been fetched. This aspect has not been properly taken into account. At least 10% every year natural growth over said rate of ₹ 397/- per square foot ought to have been considered and accordingly compensation ought to have been calculated. According to them, the rates of compensation demanded by the claimants are modest.

50. Learned advocates go on to submit that with the development, prices of lands are rapidly increasing every year almost by 50%. Plots in the vicinity are being sold @ ₹ 1750/- per square foot. According to them, the lands ought to have been granted compensation @ ₹ 1750/- per square foot.

51. Learned advocates submit that may be sale deeds produced and relied on are of small pieces of land, yet, there is no regulatory injunction on relying upon sale deeds of small developed plots for the purpose of determining compensation of large tracts of lands making suitable deductions for the purpose of development and other charges. For said purpose, learned advocates refer to and rely on a judgment in the case of *"Executive Engineer © MSEB, Nagpur V/s Uttamrao Bapurao Raut and Others"*

reported in *2009 (6) ALL MR 827* as well as judgment in the case of *"Hasanali Walimchand (dead) by LRs V/s State of Maharashtra"* reported in *AIR 1998 SC 700*. Paragraphs No. 18 and 19 from judgment in the case of *"Executive Engineer, MSEB Nagpur" supra* are referred to, which according to them, discuss the issue. It is submitted that if the sales are genuine and reliable and if the lands have comparable features, reasonable deduction could be made to arrive at just and fair market value of large tracts of land.

52. Mr. Gaware, refers to a judgment of the Supreme Court in the case of *"Special Land Acquisition Officer and Another V/s M. K. Rafiq Saheb"* reported in *2011 (8-9) SBR 494*. He submits that said judgment endorses the view taken by division bench of this court that instances of sale of small pieces of lands cannot be considered, is not an absolute rule. He also refers and relies on a judgment in the case of *"Bhagwathula Samanna V/s Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, Visakhapatnam"* reported in *1991 DGLS (SC 477 : 1991 (4) SCC 506* particularly, paragraphs No. 7 and 13 from the same. Paragraph No. 7 relates to factors which weigh while determining market value of land, whereas paragraph No. 13 refers to that it is not always that a large area of land would not fetch price at the same rate as small plots. In given circumstances, it is permissible to take into

account price fetched by small piece of land, if use of larger tract of land can be made for which smaller plots are used.

53. He refers to a case of *"Mehrawal Khewaji Trust (Regd) Faridkot and Others V/s State of Punjab and Others" 2012 DGLS (SC) 220 : 2012 (5) SCC 432*, wherein it has been considered that where there are several exemplars, highest of the exemplars if it is satisfied that there is a *bona fide* transaction, has to be considered and accepted.

54. Learned advocates for the claimants refer to yet another division bench judgment of this court in the case of *"State of Maharashtra V/s Smt.Bhimabai Bhika Gondal (Dead) through LRs"* reported in *2007 (6) ALL MR 215*. It is contended that once the comparability, nature of the land, its potential and utility are similar, in that event mere fact that the sale instances relied upon by the court relate to an adjacent village would hardly be of any consequence.

55. It is submitted that there is no limitation on the power of the court to award adequate compensation and the State is bound to pay compensation to all the claimants, referring to paragraphs No. 18 and 19 of aforesaid judgment. Paragraph No. 21 thereof is referred to, to contend that government would be under obligation to grant equal compensation irrespective of

claims by claimants, taking into account section 25 of the Act.

56. It is submitted that important piece of evidence, examination of the valuers has been ignored. Valuation reports have been absolutely discarded. It is contended that in judgment in the case of *"M. D. Tirthakar V/s State of Maharashtra"* reported in *AIR 2009 SC 2238 : 2004 SAR (civil) 465*, it has been held that valuer's report is worthy of credence, them being expert in the field. It is submitted that minor inconsistencies have to be overlooked. Proximity of the developed area is a consideration which is imperative, referring to paragraph No. 37 from said judgment.

It is contended that while claimants have successfully discharged their burden and testimony and valuation report of expert valuer show that the award of compensation passed by Land Acquisition Officer was inadequate, the onus shifts on the respondents to adduce sufficient evidence to sustain the award. Burden of proving true market value and acquired property is on the State. With reference to the evidence on record the land value ought to be determined. In the absence of rebuttal evidence, reliance ought to be placed on the evidence of claimants.

57. Learned advocates submit that valuation reports of

government approved valuer Anil V. Phulari show that the land ought to have been evaluated on non agricultural basis. The valuation reports (Exhibits-39 to 45) give detailed description of lands, however, have been absolutely discarded.

58. Tree/plant valuer Mr. Nandkumar Ganpatrao Patil has been examined at Exhibit-69, in his evidence, he has referred to that he has taken into account forest and fruit bearing trees and has given four valuation reports at Exhibits-59 to 62. His evidence has not been considered by the reference court.

59. Mr. Gaware refers to a decision of the Supreme Court in the case of *"Thakarsibhai Devjibhai and Others V/s Executive Engineer, Gujarat and Others"* reported in *2001 (2) LACC, 319*, wherein it appears that land rate determined by the collector had been reduced by high court considering that reliance had been placed on sale instances of smaller area.

60. He refers to paragraph No. 5 from judgment of the Supreme Court in the case of *"Krishi Utpadan Mandi Samiti Sahaswan District Badaun through its Secretary V/s Bipin Kumar etc."* reported in *2004 DGLS (SC) 569 : 2004 (2) SCC 283*, wherein growth @ 15% p.a. had been allowed.

61. He refers to a judgment of the Supreme Court in the case of *“Special Land Acquisition Officer V/s Mohd. Hanif Sahib Bawa Sahib”* reported in *2002 (4) SBR 273*, which was a case dealing with acquisition of land, which had been surrounded by all four sides of plot and had lot of potential for further development. Therein the land value determined by the land acquisition officer had underwent an upward modification. Having regard to facts involved, it has been held that 10 % appreciation per annum was reasonable.

62. A decision of division bench of this court in the case of *“The State of Maharashtra V/s Ganpatrao Amritrao Deshpande”* reported in *AIR 1982 Bombay 225*, has been relied on, on behalf of the claimants, referring to that land acquisition compensation may be determined finding out what a willing purchaser will pay for the land. To assess market value resort must be had to well recognized principle of valuation, which would be instances of sale situated in vicinity and opinions of experts and it is not open for determining authority to reduce market value by some arbitrary proposition arrived at by itself to compensate for the restriction. It is duty of the court to find out true market value of the acquired land.

63. Learned advocates for the claimants contend, that reversal

of judgment of reference court is not possible when the same has been given on basis of evidence and material on record. Suggestions by the State for reversal of a judgment are not justifiable. It is submitted that it is not the case that the State has given any evidence. The market value determined by the reference court may not be interfered with, with downward modification and compensation be enhanced as demanded.

64. Learned advocates refer to a decision in the case of *"Collector Raigarh V/s Harisingh Thakur and Vice Versa"* reported in *1978 SGLS (SC) 334 : 1979 AIR (SC) 472* to contend that factors to be considered while determining potential value of the land are its suitability for building purposes, its proximity to residential, commercial and industrial area and educational, cultural or medical institutions, existing amenities like water, electricity and drainage and the possibility of their future extension, etc.

65. Mr. Gaware, for building potentiality, refers to a decision in the case of *"P. Ram Reddy V/s Land Acquisition Officer, Hyderabad Urban Development Authority, Hyderabad"* reported in *1995 DGLS (SC) 148* as well as *"State of Haryana V/s Ram Singh"* reported in *AIR 2001 SC 2532* and refers to paragraphs No. 8, 9 and 17 therein. He submits that possibility of user of acquired land for building purpose in

near future, to be regarded as building potential, was strong and, thus, compensation with reference to the same ought to have been determined.

66. The claimants contend that compensation granted by the special land acquisition officer as well as enhanced by the reference court has been inadequate and the claimants deserve rate of ₹ 1,750/- per square foot to their acquired lands.

67. Mr. V. D. Sapkal, learned advocate for respondent - claimants refers to and relies on a judgment of the Supreme Court in the case of *"Sunder V/s Union of India"* reported in *AIR 2001 SC 3516*. He contends that compensation awarded would include not only the total sum arrived at as per sub section (1) of section 23, but the remaining sub sections thereof as well. Under section 34, expression 'awarded amount' would mean the amount of compensation worked out in accordance with provisions contained in section 23, including all the sub sections thereof and solatium forms an integral and statutory part of the compensation awarded to a land owner and interest under section 28 is thus payable on the compensation awarded and not merely on market value of the land.

68. It is sought to be contended that interest would be payable

from the date of publication of notification under section 4 of the Act. This submission is advanced, since it is being contended that possession had been taken over by negotiations even before award had been passed by the special land acquisition officer, while the State and GMIDC contend that reference courts have committed error in granting interest from the date of notification under section 4 of the LA Act.

69. Judgment in the case of *"R. L. Jain V/s D. D. A and Others"* reported in *AIR 2004 SC 1904* has been relied on to refer to that interest would be payable from the date of notification under section 4 of the Act.

70. He refers to a decision of the Supreme Court in the case of *"Maj. Gen. Kapil Mehra V/s Union of India and Another"* reported in *2014 AIR SCW 6086*. He submits that interest is liable to be paid in accordance with sections 34 and 28 of the Act.

71. On the other hand, learned senior advocate Mr. R. N. Dhorde appearing on behalf of the acquiring body refers to and relies on a judgment in the case of *"Union of India V/s Mangat (Dead) by LRS and Others"* reported in *2000 (4) ALL MR 590 (SC)*, to submit that reliance placed on sale instances Exhibit-48 (32), 49 (33), 21 (34), 20 (35) and 51 (36) and to go by average pricing, is not

proper. Various factors have to be taken into account while determining land acquisition compensation. A mathematical formula completely disregarding location of land *vis-a-vis* sale instance would not only be not proper but also would be dangerous. The matter will have to be properly looked into as had been found by the Supreme Court in the judgment. Land abutting main road, highways, near and in *gaonthan* would generally fetch more value than lands which are at distance from the same. Sale instances in the present case are from areas very close to *gaonthan* and main roads, whereas, claimants' lands have not been situated so advantageously and are at long distances, at least at a distance of two kilometer from *gaonthan* and quite a long distance from main roads. It is submitted that claims that those being situated about 500 and 700 feet from highway and civil settlements, is without any evidence. Sale instances being from lands situated within developed area, those are of a little use in arriving at market value of the lands acquired.

72. Learned advocates for acquiring body and the State also refer to decision of the Supreme Court in the case of *"Union of India V/s Mangat (Dead) By LRs and Others"* reported in *AIR 2000 SC 3527*. In the same, it has been referred to that market price of land,

which is land locked and which is far away from highway, would not be same as that of which abuts the national highway. Market value of land abutting national highway would be much more than the land which is away from it. Application of uniform mathematical formula of price, regardless of location of different parcels of land is incorrect. Albeit, with reference to aforesaid judgment claimants attempt to contend that acquired lands are being claimed to be closer to highway, would fetch better market value as stated in the judgment.

73. Head notes A and F of a decision of Allahabad High Court in the case of *"Mumtaz Ali Khan (Deceased by LRS) V/s Collector, Rampur, UP and Another"* reported in *AIR 1996 Allahabad 71* also refer to that compensation will be assessed at diminished rate, if land is blocked from all sides and also that land away from road will have lesser commercial value.

74. Learned senior advocate submits that even otherwise, judgment of the Apex Court, reported in *AIR 2004 SC 4830 "Cement Corporation of India V/s Purya and Others"*, shows that while certified copies would be read in evidence, if sale instances are taken into account pursuant to section 51-A of the Land Acquisition Act, yet, the constitutional bench has also ruled that, their evidential

value is to be evaluated in the light of other evidence adduced. He submits that as observed in paragraph No. 33 of the judgment, contents of sale deed cannot be accepted as regard transaction contained therein or the court is not under obligation to accept the same. Section 51-A of the Act is discretionary in nature. The court, having regard to other material brought on record, is entitled to appreciate such evidence for determining issues raised before it. He submits that award of compensation on arithmetic calculations, with reference to sale deeds without considering evidence available on record would not be proper. He refers to paragraphs No. 28 and 33 etc. from said judgment.

75. He also refers to a decision in the case of *"Lal Chand V/s Union of India and Another"* reported in *AIR 2010 SC 170* to contend that rates of plots adopted by development authorities would not form basis for award of compensation for acquisition of undeveloped lands for several reasons. Allotment rates of development authorities are with reference to small plots in developed layouts. Further, authorities adopt different rates for plots in the same area with reference to economic capacity of the buyer. He further refers to that even in this decision as well the Supreme Court has said that the courts have discretion to rely upon certified copy of sale deed received in evidence or to

reject the same as unacceptable. He further refers to paragraph No. 36 from said judgment contending that a sale deed relating to small plot to determine market value of large area would not be proper and has also referred to that in that case the Supreme Court has set aside enhancement in compensation granted by high court. He then submits that market value has to be determined with reference to large tracts of undeveloped agricultural area.

76. Additionally, it is the contention of the State and the acquiring body that land acquisition compensation has been determined by the reference court erroneously steeply hiking the rate on per square foot basis, while majority of lands being used for agriculture purpose. According to them, the lands ought not to have been granted such high rate of compensation at all. It is their further contention that going by the rates granted in third group of appeals, rate of compensation granted to acquired lands is too steep and high and the circumstances do not warrant such a hike in land acquisition compensation.

77. It is further contention on behalf of the State and the acquiring body that the reference court has erroneously relied on, on its own decision for determination of market value of the acquired lands. It is contended that reference court’s judgment

cannot be relied on as evidence as is done. It is contention that award by reference court cannot form basis for determination of market value. According to learned advocates, at the highest, possible rate would be of ₹ 21/- per square foot going by decision of reference court in Group-III with reference to sale deed at Exhibit-19 therein.

78. Learned advocate for GMIDC contends that land acquisition reference No. 454 of 2008, in respect of acquisition of claimants' land therein, under the same notification under section 4 of the Land Acquisition Act, dated 11th February, 2007, reference court, under its judgment and award, had enhanced compensation to ₹ 14,00,000/- per *hectare* while evidence in the form of same sale instance dated 10th February, 2004 as in the present case was considered.

79. Further, in land acquisition reference No. 453 of 2008, arising out of same notification dated 11th February, 2007, land bearing Survey No. 202 housing a ginning factory having NA potential, compensation had been enhanced by reference court under its judgment and award dated 20th January, 2011 to ₹ 21,78,966/- per *hectare*, referring to the same sale instance dated 10th February, 2004 corresponding to rate of ₹ 21/- per

square foot.

80. Contending that interest granted by reference courts from the date of publication of notice under section 4 of the LA Act is not sustainable. A decision of full bench of this court (Nagpur Bench) in the case of *"State of Maharashtra V/s Kailash Shiva Rangari"* reported in *MANU/MH/0551/2016 : 2016 (3) Mh.L.J.457* has been cited and relied on in this respect.

81. Learned advocates rely on a decision of the Supreme Court in the case of *"State of Punjab V/s Amarjit Singh and Another"* reported in *(2011) 4 SCC 734* and refer to paragraphs No. 13 and 14 from the same. It is in respect of interest and liability to pay income tax. For similar purpose, paragraph No. 20 from Kerala High Court judgment in the case of *"Mary George V/s State of Kerala"* reported in *2013 (18) RCR (Civil)* has been referred to. It is submitted that interest under section 28 of the Act is not a component of compensation.

82. Paragraph No. 13 from judgment of Punjab and Haryana High Court in the case of *"Naresh Kumar Jain and Others V/s State of Haryana and Others"* reported in *2017 (4) PLR 193* has been referred to for similar purpose.

REASONS

POINTS A AND B

83. In all these first appeals, for and on behalf of the claimants, Kiran Hiware, Anil Bodke and Bharat Kumar Reddy, have given evidence. Anil Phulari, has given evidence as valuer in all these matters. Special Land Acquisition Officer, Executive Engineer, an employee from the office of Taluka Inspector of Land Records and Tax Inspector Municipal Council, Ahmedpur have also given evidence.

84. Sale deeds have been produced at Exhibit-48 (32) [brackets are Exhibit number in II group], 19 [Exhibit-18-group III], 49 (33), 21 (34), 51 (36), 50 (37), 20 (35) and Exhibit-19 in the third group (and hereinafter are referred to by exhibit numbers in first group non bracketed numbers). Said sale deeds are in respect of lands in Survey No. 86, 88/1, 86/1, 2, 2/2/3, 2/5, 2/7 and 88/2.

85. For proper appreciation, given herein below is a table showing witnesses as well as sale deeds along with rates per square foot, as the sale deeds depict based on consideration and area.

PARTICULARS	GROUP I	GROUP II	GROUP III
Date of Section 4 Notification	11.02.2007	07.07.2006	11,02,2007
Date of Award by SLAO	05.02.2008	06.05.2008	05.02.2008
Date of Judgment by R.C.	30.12.2014	31.12.2014	20.01.2011
NAMES OF WITNESSES	EXHIBIT	EXHIBIT	EXHIBIT
Kiran Hiware - Claimant	14	--	--
Anil Bodke - Claimant	--	16	--
Bharatkumar Reddy - Claimant	--	--	20
Anil Phulari - Valuer	64	408	24
N. G. Patil - Tree Valuer	69	--	--
Dr. Padeep Marvale - SLAO	72	414	--
Vijay Kumar Patil - Ex. Engineer,	75	416	--
Laxman Paikrao - TILR	80	421	--
Bharatsing Thakur - Tax Inspector	82	424	--

Dates of Sale Deeds	Sy. No.	Area	Consideration	Rate Per Sq. Foot Approx.	EXHIBIT Group I	EXHIBIT Group II	EXHIBIT Group
02.08.2000	86	181.25 SM	3,78,000	193/-	48	32	
10.02.2004	88/1/1	63 R.	54,32,000	80/-	19		18
24.05.2004	86/1	150 S.M.	4,00,000	247/-	49	33	
29.06.2005	2/5	440 S.F.	1,00,000	227/-	21	34	
06.07.2005	2/2/3	300 S.M.	3,32,000	129/-	51	36	
22.08.2005	2/2/3	90 S.M.	1,25,000	150/-	50	37	
01.12.2005	2/7	800 S.F.	1,20,000	150/-	20	35	
15.04.2004	88/1 88/2	48 R	47,60,000	92/-			19

86. Claimants have also placed on record certain documents. Receipt dated 14th January, 2004 indicating land of Ramrao being assessed for non agriculture purpose – stone crusher. Applications in respect of land Survey No. 241 to Director of Industry of 1996 and 1999 showing permanent registration as small scale unit. Lease deeds between government and Ramrao Sarole, Bodke in respect of Survey No. 241/1. Permission given

to Bhausaheb Shelke in respect of Survey No. 245/1/2A of 26th March, 1998. Registration as contractors has also been placed on record of S. N. Bodke and company. Documents from Waste Management Scheme, Gujrat had been produced in order to show that some plant had been supplied.

87. Concerning lands in Survey No. 257, 274, 275 (Group-I) Kiran Hiware at Exhibit-14, in deposition has reiterated the case as in reference petition. He states that sale deeds submitted in evidence are in respect of plots within the municipal area and many of the plots were bearing municipal numbers and plots are situated in dense locality. There are residential settlements around the plots. He refers to that sale deeds at Exhibits-20, 49 and 51 are in respect of lands which were permitted non agriculture use and that the area of plots had all civic amenities, facilities and conveniences and relies on sale deeds at Exhibits 19, 20, 21, 48, 49, 50 and 51.

He knows that though Reddy's land (ginning factory, Survey No. 202) had been granted permission for non agriculture use, land acquisition compensation had been granted to him on *hectare* basis.

He further refers to that survey No. 257 was not given non agriculture use permission and that no plots were laid out over the same. No land from Survey No. 257 had been dealt with. Albeit, he refers to that one of the claimant's land which is close to acquired lands has received NA permission in 1986 for residential purpose.

No evidence in respect of non-agriculture use permission or orders had been given in respect of lands under acquisition.

88. Concerning lands in Survey No. 241, 242, 245 and 246 (Group II) Claimant Anil Bodke, has similarly as in group I *mutatis mutandis* referred to case of claimants as stated in reference petitions and refers to that land Survey No. 241 is being used for non agriculture purpose with permission since 1989 and an industry had been registered with District Industry Center. He had been given permission to carry out industrial activity and there is a stone crusher and hot mix plant. He states that there is dense habitation around.

89. Claimants have relied on sale instances Exhibits – 32, 33, 34, 35, 36 and 37 corresponding to sale deeds relied on in group-I, being Exhibits-48, 49, 21, 51, 50, 20 respectively.

He, however, fairly refers to that surrounding the area under sale deed Exhibit-32, there is colony road and Ahmedpur-

Thodga road. So is the case of sale deed under Exhibit-34, which has two roads abutting the plot and that said plot had received Non Agriculture permission. In respect of sale deed at Exhibit-36, albeit, he purports to claim that there are plotting properties around the same. He claims that there is construction over the lands under acquisition.

90. In his affidavit of examination in chief, the claimant Bharatkumar Reddy (Group III) while reiterating contents of reference petition has contended that the State had taken possession of his land before initiation of acquisition proceedings i.e. on 30th March, 2007 by private negotiations agreeing to pay all legal entitlements as provided under the Land Acquisition Act, 1894. The claimant had demanded compensation @ ₹ 35,00,000/- per *Acre*, as on the land there was functional ginning and pressing factory and the area being within municipal limits was being used for NA purpose. He had also filed valuation report of a private valuer, who had referred to sale transactions in his report. Land being used for industrial purpose is evident from various documents issued by concerned authorities. He refers to that it is observed by the land acquisition officer in award that the acquired land had NA potentiality and referred to ready reckoner rates of the land. All these aspects have not been

given proper consideration by the land acquisition officer albeit observing that lands fall within municipal limits and close to Ahmedpur – Ambajogai road. Special land acquisition officer had passed award behind back of the claimant, without considering claim statement and had not issued any notice or served the same on the claimant. Claimant came to know about award on receipt of notice under section 12 of the Act and the amount had been withdrawn under protest, reserving right to file reference and the reference had been filed within prescribed period of limitation thereafter. Special Land Acquisition Officer had awarded rate of ₹ 8,00,000/- per *hectare* as against demanded of ₹ 35,00,000/- per *Acre*, which was prevailing market price.

91. Mr. Reddy has referred to a sale deed dated 10th February, 2004 of an area of 63 *Are* for an amount of ₹ 54,32,000/-from land survey No. 88/1 situated in Ahmedpur taluka head quarter. Said land had been purchased by him along with others from one Kishanrao Deshmukh, indicating market price of the land would be around ₹ 35,00,000/- per *Acre*. He contends, the land is in the vicinity of land being acquired and is just about six to seven land pieces away from claimants land.

92. A sale transaction of about 48 *Are* land dated 15th April,

2004 from land survey No. 88/1, 88/2 for ₹ 47,60,000/- had been referred to by him. This land as well is situated just about six to seven pieces away from the acquired land. Thus, according him sale instances are indicative of that going by market prices, the lands were about ₹ 40,00,000/- per *Acre.*

93. Thus, the deponent had claimed compensation @ ₹ 35,00,000/- per *Acre* with all legal benefits under the provisions of the Land Acquisition Act, 1894 and 30% solatium, 12% increase per year from the date of notification under section 4 till passing of the award, 9% interest for the first year from the date of possession and thereafter 15% p.a. on enhanced compensation till realization and interest u/s 34 of the Act on the entire claim with all legal benefits.

94. In the cross examination, however, he has accepted that the land is *jirayat* and further that he had been aware of that a portion of land where part of factory had been existing had been acquired and rest of the factory was as it is albeit has claimed that it is not possible for him to run business from the portion which is not acquired because the portion left out is not sufficient for running business. He had also accepted that he had not sold any plot from his land. It has been elicited from him that there

would be difference in the prices of non agriculture use land and agricultural lands. His evidence shows that there are roads on the northern, eastern and southern sides of the land under sale deeds.

95. He has referred to that there had been measurement of land by acquiring authorities before acquisition and that he had not filed any application for valuation.

96. Anil Phulari, private valuer, has stated that properties of Anil, Ashok, Ramrao Shelke were having non agriculture permissions. Permissions of non agriculture use had been given to aforesaid persons for commercial use. Rest of the lands were not having non agriculture permission. He states that lands acquired are like the lands in Surveys No. 246, 267 and 263.

He also accepts that there is difference, albeit, minor, in the rates for the land having NA potentiality and where there is actual plotting. He had valued the land in accordance with sale instances. He has not referred to sale deed of any plot which was adjoining the acquired land. He states that distance in the lands under sale instance and the acquired land is more than 1000 feet.

It has been elicited in his cross-examination that valuation of lands done by him was as per DSR rates of the Public Works Department. He also concedes to that PWD/DSR rates for construction are flexible and further that he did not possess anything to show as to what were DSR rates at the time of valuation.

He also has conceded to that there is no documentary evidence to show as to the date of construction, material used for construction and has further accepted that there would be depreciation in construction. He further refers to that he did not submit Indian Valuer Journal in order to show standard norms of valuation and basic guidelines.

In the cross examination, it has been elicited from him that no evidence was made available that he is government approved valuer. He did not obtain written application from claimants. The land was already acquired before valuation. He concedes to that he did not issue notice to the government officials before visiting the spot or before drawing *panchanama* or before valuation, nor the officials were present at the time of conducting *Panchanama* and no efforts were made to secure presence of government officials. *Panchanama* is not submitted before the court. He also further accepts that there is no outward number to valuation report. There is no inward/outward register maintained. It has been elicited that the had inspected lands in 2006 and given report in 2009. He concedes to that there is a gap of three years between date of valuation and date of valuation report. He had not issued the valuation report immediately.

It appears that the reference court has justifiably considered that evidence of the valuer was difficult to be taken into account and relied on and had not given any weightage to his evidence. There are no documents placed on record by him except report. Thus, the valuation report loses out on its credibility.

97. Though fruit plant valuer Mr. N. G. Patil, has been examined, it turns out that in reference petition there is no reference to him nor there are any pleadings about the same or his report. There is no reference to any particulars about valuation as to when it had been carried out on any particular day or time. He is not a government approved valuer. Nor had he produced any evidence save and except his report. No corroborative material had been adduced. Even claimants had not produced relevant documents showing that there are fruit bearing trees standing in the acquired lands. For similar reasons, as is case of Mr. Phulari, his report is difficult to be taken into account.

98. Dr. Pradeep Marwale, Special Land Acquisition Officer has referred to in his evidence that though lands in 2005/LNQ/CR/37 and 2005/LNQ/CR/33 have been acquired for the same project and are adjoining, yet market value of said lands is different. He has particularly referred to that if transaction of sale and purchase is on the basis of *Acre*, price is given with reference to *Acre* even in respect of non agriculture potential land. Rate of market value is determined on per square foot, if transactions are shown on that basis. He states that land Survey No. 202 has been considered as non agriculture land, since was having ginning mill, which is industrial use. So is the case of land survey No. 241 on which stone crushers and hot mix plant are seen and had been considered as NA lands. He refers to that on left of bridge of Ambajogai road there is college and school.

99. Vijaykumar Patil, Executive Engineer, Minor Irrigation Department, in his deposition has referred to that inspection of the lands had been done on 10th April, 2007. He has referred to crushers on acquired lands of the concerned claimants. He has stated that though valuation can be done by civil engineer, there would not be any difference in the rate of valuation by private valuer and government valuer.

100. Laxman Paikrao, an officer from the office of Taluka Inspector of Land Records, in his deposition has stated that survey had been carried out in 2005 in the presence of officers of land acquisition department. He has referred to that Ahmedpur-Jintoor road passes through lands survey No. 241, 246 and other land survey numbers. He has also referred to that though name of the project is “Kalegaon Water Storage Tank”, lands acquired are from Ahmedpur area. He has referred to that survey No. 241 was non agriculture land and some part of survey No. 245 was given non agriculture permission. He refers to that NA use permission lands are used for stone crushing and its office. He refers to that construction noticed during survey had been noted in joint measurement report. He had noticed street lights, roads, water supply facility, Dhabas, play grounds in the vicinity.

In his cross-examination, it has been elicited that there were no houses alongside the road and whatever house had been seen there that was office of stone crusher’s business. Moreover, he has stated in the cross-examination that lands can be used in future for non agriculture purposes was his guesswork.

101. Bharatsing Thakur, Tax Inspector of Ahmedpur Municipal

Council states that municipal limits were up to Dukkar weir/embankment and the same is beyond river. The river is on the west of Ahmedpur town. Documents / Certificates Exhibits-166 to 171 are issued by Municipal Council as well as Exhibits-70 and 71.

102. Record produced in the matters include quite a few maps. During the course of submissions attention had been drawn to maps at Exhibit-33 (31 in Group II) and Exhibit-56 in group II.

103. There is no dispute over these maps. The maps depict locations of lands including the lands under acquisition. After going through the decisions and after hearing learned advocates and having regard to the maps, it emerges that all the lands under acquisition in these three groups are on the north of Ahmedpur-Ambajogi highway. Intervening the lands acquired and the road, there are a few land survey numbers. It would not be said that acquired lands are abutting said road. It also emerges that major development of Ahmedpur city, is beyond highway on south and distant east sides of acquired lands. Acquired lands are situated at quite some distance from Ahmedpur town.

Land Survey No. 275 abuts land Survey No. 202 on northern side and to its northern side, is Survey No. 274. Lands Survey No. 241, 242, 245 and 246 are on the northwest of Ahmedpur town. Lands Survey No. 256 and 257 are also on the north-west. Some paths / roads (not major) are shown to be passing from lands Survey No. 241, 245 and 246.

104. On behalf of the claimants it has been referred to that lot of developments have taken place in vicinity, contiguous to and abutting acquiring lands. They claim 132 KV electricity sub station, Yashwant College, Ahmedpur-Ambajogai road, being near and close to their lands. It is claimed that certain commercial and industrial developments as well as residential localities are close or adjacent to their acquired lands. A witness, *viz;* officer from the office of the Taluka Inspector of Land Records, has referred to certain developments *viz;* play ground, dhaba, street lights, water supply.

105. Yet, no material or documentary evidence has been produced in respect of the same. Neither sale deeds nor there have been any documents placed on record about non agriculture use permission of the lands which are claimed to be around the acquired lands.

106. The special land acquisition officer refers to that survey No.

202 being in use for ginning mill and land survey No. 241 was being used for stone crushing and hot mix plants which have been considered as non agriculture use.

107. Leaving aside portions of lands from survey No. 202, 241/1, 245/1/2, none of the lands of the claimants has been granted permission of non agriculture use nor lay outs are prepared nor plots were laid. Though facilities are claimed to be available, there is no material made available in respect of those being available to the acquired lands.

108. Stone crushers and hot mix plants, generally, are away from hub and residential localities and are not ordinarily found inside developed and developing areas. It is discernible that same would be away from the residential localities. It also emerges from evidence that claimed civic developments have come up over lands in vicinity.

109. The reference courts have observed, the acquiring body had accepted that the acquired lands have NA potentiality in its pleadings. The courts had also observed that said lands though were not non agricultural lands, having regard to that they were falling within municipal limits and having regard to overall evidence, the lands certainly had NA potentiality and the same

had been ignored by the land acquisition officer.

110. It may have to be noted that non agriculture use permission was given to portions of lands those of Ashok, Anil Bodake, Ramrao Sarole, Bhausaheb Shelke and Bharatkumar Reddy from a long time. There appear to be stone crushers, hot mix plant and ginning factory of said claimants. Reference may be had to documents on record in respect of the same, *inter alia, viz;* Exhibits-38, 79, 177 (Group II), Exhibit-67 (group I) and documents from Exhibit-95 (Group III) onwards respectively, in respect of lands survey No. 245/1, 241/1/2 and 202 showing NA use permitted. Evidence sufficiently bears that certain lands were put to use for running ginning factory, stone crusher and hot mix plant. Documents Exhibits 165 to 171 depict that lands are within the limits of Ahmedpur municipal council.

111. In the decisions it has been referred to that lands under acquisition are at a distance of about 1.5 km to 2 km and were about 500 meter from Ambajogai road.

112. Thus, taking overall situation into account, it sufficiently emerges that the lands acquired indeed had NA potentiality.

113. But, there is no specific evidence regarding prices of acquired lands. Claimants have placed heavy reliance on sale

deeds produced for prices and for enhancement in acquisition compensation.

114. Reference courts had considered that valuation with reference to comparable sale deeds would be a settled method taking into account decision of the Supreme Court in the case of *“Special Land Acquisition Officer and Another V/s Purushottam Bhiku Mulgaonkar (Deceased) 2005 (3) ALL MR 815*. It has often been considered by courts that sale instances would be relevant piece of evidence in determining market value of lands.

115. While acquiring body or the State had not placed any sale deed on record, sale deeds placed on record by the claimants may guide and may be useful for determining compensation.

116. The sale deeds of the lands are of the dates before 11th February, 2007.

a. Sale deed dated 2nd August, 2000 Exhibit-48 (32), is in respect of an area of land approximately having dimensions of 14.5 meter X 12.5 meter (181.25 square meter) from land survey No. 86, situated within municipal limits showing that on southern side there is Ahmedpur-Chodga road and rest of the sides were surrounded by lay out and road under lay out, for a consideration of ₹

3,78,000/-. This translates into a rate of ₹ 194/- per square foot.

b. Sale deed at Exhibit-19 [Group-III, Exhibit-18] is of the year 2004 and is in respect of Survey No. 88/1 and consideration for an area of 63 *Are* was ₹ 54,32,000/- corresponding to approximately ₹ 80/- per square foot.

c. Sale instance dated 24th May, 2004 Exhibit-49 (33) is in respect of plot area around 150 square meter from survey No. 86/1 showing consideration of ₹ 4,00,000/- corresponding to rate of land to be ₹ 247/- per square foot.

d. Sale instance dated 29th June, 2005 Exhibit-21 (34) is in respect of plot from land survey No. 2/5. This sale instance is of a plot having dimensions 22 feet X 20 feet (440 square feet) showing on southern side Ahmedpur to Ambajogai road and rest of the sides were surrounded by lay out plan road and other plots. Consideration for an area of 440 square foot was ₹ 1,00,000/-, which corresponds to ₹ 227/- per square foot.

e. Sale instances dated 6th July, 2005 Exhibit-51 (36) is with respect to an open plot of 225 square meter in survey

No. 2/2/3 stating to be falling within municipal area referring to roads from Mondha and Kalegaon for a consideration of ₹ 3,32,000/-, translating into a rate of ₹ 138/- per square foot.

f. Sale deed dated 22nd August, 2005 Exhibit-50 (37) is in respect of an open plot in survey No. 2/2/3 surrounded three sides by plots and one side by road and consideration for an area of 90 square meter was ₹ 1,25,000/- corresponding to ₹ 129/- per square foot.

g. Sale instance dated 1st December, 2005 Exhibit-20 (35)) is of an area of 800 square feet from land survey No. 2/7, referring to Ahmedpur to Ambajogai road on the southern side and rest of the land is surrounded by plots and 6 meter road, for a consideration of ₹ 1,20,000/- showing rate of land to be ₹ 150/- per square foot.

h. Sale deed at Exhibit-19 (third group) is of the year 2004 and is in respect of Survey No. 88/1 and 88/2 and consideration for an area of 48 *Are* was ₹ 47,60,000/-, corresponding to ₹ 92 per square foot.

117. Exhibit-48 (32) is sale deed dated 2nd August, 2000 and

with reference to the same, compensation of ₹ 397/- per square foot has been claimed. Exhibit-19 (Exhibit-18 in Group III) is sale deed dated 10th February, 2004 and with reference to the same, rate of ₹ 115/- per square foot is claimed. Exhibit-49 (33) is sale deed dated 24th May, 2004 and on that basis compensation of ₹ 359/- per square foot is claimed. Exhibit-21 (34) is sale deed dated 29th June, 2005 and with reference to the same, rate of ₹ 295/- per square foot has been claimed. Exhibit-51 (36) is sale deed dated 6th July, 2005 and on the basis of the same, ₹ 178/- per square foot has been claimed. Exhibit-50 (37) is sale deed dated 22nd August, 2005 and on the basis of the same, ₹ 178/- per square foot has been claimed. Exhibit-20 (35) is a sale deed dated 1st December, 2005 and with reference to the same, compensation @ ₹ 195/- per square foot was claimed.

118. Aforesaid, sale deeds do not depict that rates claimed by the claimants are borne by those. The rates are, and as can be seen from the table are, in the range of ₹ 80/- and ₹ 247/- per square foot going by area and consideration referred to in the sale deeds.

119. Reference courts, thus, had observed that while the

highest price rate claimed with reference to sale deeds had been ₹ 397/- per square foot, claimants' demand of rate of ₹ 1750/- per square foot is four times more and, as such, the demand would not be acceptable.

120. *"Cement Corporation of India Ltd,. V/s Purya and Others"* reported in *2004 AIR SCW 5534* can be usefully referred to, to consider, as considered by the reference court that even if it is to be considered that while sale deeds are useful and are of relevance, it would not mean that the prices or rates, as it is would be applicable to the acquired lands, since lot of other factors *viz;* location, distance, facilities, business and / or residential developments, prospects etc. with respect to lands acquired and lands under sale deed may not be similar. Observations of the Supreme Court in said case are with respect to that one may rely on content of sale deed pursuant to section 51-A of the LA Act, however, value under sale deed may not be mathematically applicable without taking into account the other evidence available. In such a case, sale instances may serve as guide in determination of market value of lands.

121. Thus, it has to be considered that the prices under sale deeds would not be applicable as it is and it is necessary to compare acquired lands and the ones under the sale deeds.

122. Compensation for acquired lands with reference to the sale deeds will have to be determined, considering various aspects, such as, location, distance from developed lands, developments around, availability of facilities, business and / or residential developments, prospects, etc.

123. While sale deed at Exhibit-19 (Exhibit-18 in group III) bears a rate of ₹ 53,75,000/- per *hectare*, with 10% increase each year figure per *hectare* after three years is referred to, to be ₹ 69,87,500/- and the same had been halved by the reference court considering that land under the sale deed had been purchased by four persons and, as such, must have been purchased at double the rate. Reference court went on further reducing rate by half considering that had facilities *viz;* roads, etc. being not available, price that would have been fetched would be ₹ 17,14,875/- per *hectare*. Since acquired lands being at a distance from the land under sale deed, rate of compensation was further reduced by about ₹ 2,62,031/-. Thus, rate was brought down to ₹ 14,84,844/-. Similar was the case in respect of sale deed at Exhibit-18 (in group III) and rate of compensation thereunder had been brought down to ₹ 14,84,844/- per *hectare* under similar analogy.

124. By applying aforesaid analogy, reference court has determined compensation @ ₹ 21,78,960/- per *hectare* of land Survey No. 202.

125. The analogy applied does not appear to be proper and sustainable. In the first place, assumption that, had the lands under Exhibits-18 and 19 been sold to a single purchaser, rate would have been half, does not appear to be a sound proposition. It would not be beneficial to land owner to sell land at lower rate to a single purchaser. There is no basis / evidence to consider that four persons would pay more price to the land than deserved. The consideration appears to be rather drastic. It would also have to be considered that price of land is paid having regard to various factors, including developments around. It appears that the sold land had been surrounded by quite a few developments and had abutting roads. No land holder would ordinarily sell land below market price of land. It may have to be considered that rate of land would not fluctuate with number of purchasers and particularly that it would not be halved for a single purchaser.

126. Sale deeds produced and relied on by the claimants are in respect of lands survey No. 2, 86 and 88. Those are of plots in land within municipal limits having non agriculture use

permission. The lands under most of the sale deeds were allowed NA use since 1972 to 1986. Lands under sale deeds were better placed and were better developed. Said lands are forming hub of the city and are developed lands.

127. Lands Survey No. 86 and 88 and their sub divisions are very close to Ahmedpur-Latur road and are either very close to or are almost in *gaothan.* Land survey No. 2 is situated on northern side of Ahmedpur-Amajogai road. Map Exhibit-33 depicts that land survey No. 2 is abutting Ahmedpur *gaothan* and is very close to Latur - Nanded highway. Kalegaon road passes through land survey No. 2. Survey No. 2 is in closer proximity to acquired lands as compared to lands Survey No. 86 and 88.

128. In such a case, proper and safer way, as has been considered by the reference courts taking into account certain Supreme Court judgments, appears to be to arrive at market value of the acquired lands taking cue from the sale deeds of lands in closer proximity to the acquired lands.

129. From the distance point of view, land Survey No. 202 is closer to land Survey No.2. In the circumstances, sale deeds from survey No. 2 may serve as indicator and guide. But land

survey No. 2 is not abutting or adjacent to any of acquired lands. Acquired land survey No. 202 which is comparatively closer to Survey No. 2 appears to be separated by quite some distance. Sale deeds from land Survey No. 2 are in respect of developed area.

130. Though latitude will have to be given to that some portions from the acquired lands were being used for non agriculture purposes from quite a few years, yet those were not fully developed lands at the time of acquisition. No other acquired lands had NA permission nor is there any evidence about said lands being used for NA purpose. Despite NA permissions being granted to small portions from acquired lands from 1990 onwards up to 1998, no further non agricultural developments have come up in the adjoining areas of acquired lands. Not a single sale instance from the acquired lands is produced, either of past or for the period post 1998. This gives indication of that no developments worth the name were taking place and the rate of developments was extremely slow and tardy. Coupled with this there is no material produced in respect of developments over acquired lands or even over any adjoining lands.

131. There is generally paucity of developmental facilities for areas at distance from mainland city. There is no evidence in

respect of availability of developmental facilities for acquired lands which are at quite some distance from main town.

132. This gives indication of that the rates at which lands plots were sold from survey No. 2 would not be fetched by acquired lands. Prices of acquired lands, though may be having NA potentiality, would be on downward side from those of lands in Survey No. 2. Rates of acquired lands would be not that of developed lands. Additionally, expenses over developments and betterment of the lands would have to be taken into account, as considered by the reference court. The rates would be considerably less than the developed lands in survey No. 2, with deductions for development etc.

133. The special land acquisition officer had referred to in the evidence that in respect of, *inter alia,* non agricultural lands, if sale transactions are in acres, land rates are determined on acreage and if transactions are on square foot basis, rate is determined are per square foot. Lands of claimants have non agricultural potentiality, ready reckoner rates of acquired lands is contended to be ₹ 115/-, ₹ 175/- and ₹ 350/- per square meter.

134. It appears that reference to decision of the Supreme Court in the case of *"Special Land Acquisition Officer BTDA, Bagalkot V/s Md.*

Hanif" reported in *2002 (4) SBR 273*, would be pertinent. In said case compensation given on per square foot basis has been endorsed by the Supreme Court as the lands were within the municipal limits, while special land acquisition officer had given rate on per *Acre* basis. In the present case, there is no serious dispute on that lands under acquisition are also from municipal limits. There appears to be substance in the contention of the claimants that evidence suggests, rates would have to be determined on per square foot basis as the lands borne NA potentiality. Thus, aforesaid judgment can be taken into account. Following said decision, it would not be improper to consider determination of market value of lands on square foot basis.

135. The price range of rates of sale deeds of Survey No. 2, for the year 2005 appears to be between ₹ 129/-, ₹ 150/-, ₹ 150/- and ₹ 227/- per square foot. Average rate for sale deeds of lands in Survey No. 2 would be ₹ 164/- per square foot. Survey No. 2 is, as referred to above, a developed area.

136. In the circumstances, rates determined by the reference court in lands references in group I and II appear to be far steeper in comparison to the rates of compensation granted to land Survey No. 202 in group III, which is closer in proximity to land Survey No.2.

137. As referred to above, no sale instances could be produced from the acquired lands or those from immediately surrounding. Distance of lands from highway and from the developments and *goanthan* gives indication of that developments, if any, were extremely tardy. No sales of lands from near areas either were taking place or were not being sold at rate demanded by claimants. This is indeed a pointer to that lands would not have fetched at all rates expected by claimants and would be considerably less than the lands in Survey No. 2. Coupled with the same, it would involve expenses over betterment and developments.

138. As such, we consider that reasonably, rate would have been less than half the average rate of developed area of Survey No. 2 and taking into account that expenses would have to be incurred for development and betterment of area, rates would be hovering around ₹ 60/- per square foot for non agriculture use lands and about ₹ 50/- per square foot for other lands around 2005. With 10% increase per year, in 2007 the rate would have been approximatly around ₹ 75/- per square foot for NA use lands and ₹ 60/- per square foot for other lands.

139. Going by the decision in the matter *“Bayaji Tatya Kaluge V/s*

State of Maharashtra" reported in 2007 *(2) ALL MR 316*, it may not be improper as considered by reference court that if the lands are situated in same village, acquired for same project under same notification, in that case claimants are entitled to compensation at the same rate on the ground of parity. Since lands acquired are for the same project and are being acquired under notifications issued in close proximity, the reference court had considered that if the lands are acquired for same project under same notification, same rate can be awarded.

140. Lands being acquired for the same project and notifications for acquisition are also issued in close proximity, land owners can be said to be legitimately entitled to compensation at equal / same rate. It would be proper that land acquisition compensation be awarded at the same rate to the claimants herein.

141. We, in these three groups of appeals, in view of aforesaid discussion, consider that it would be proper to grant land acquisition compensation @ ₹ 75/- per square foot to non agriculture use lands and @ ₹ 60/- per square foot to the other lands.

POINT C

142. The courts have given along with rate of market value,

benefit of 12% p.a. additional component under section 23 (1-A) and 30% solatium under section 23 (2) of the LA Act and interest from the date of notification under section 4, for the first year at the rate of 9% p.a. and for subsequent years at the rate of 15% p.a. till the date of payment to the claimants.

143. While the reference courts purport to grant interest on market value, additional component and solatium from the dates of notification under section 4 of the Act to the date of actual payment, this particular direction / order has been rendered unsustainable in view of declaration of law over this aspect by full bench of this court in the decision on reference reported in *2016 (3) Mh.L.J. 457 : MANU/MH/0557/2016*, in the case of *"State of Maharashtra V/s Kailas Shiva Rangari".*

144. In said judgment it has been clearly considered that interest under section 34 of the Act would start running from the date of possession only if possession is taken in exercise of powers under section 17 of said Act. It has been held that if possession of land under acquisition is taken under section 16 of the Act, then interest would be payable under section 34 from the date of passing of award under section 11 of the Act.

145. In the present case, neither the parties have pleaded that

possession been taken from the claimants was in exercise of powers under section 17 of the Act, nor it is their case that procedure thereunder had been followed before taking over the possession. So far as interest is concerned, the area would be governed by the full bench decision (*supra*).

146. In the circumstances, direction / order of the reference courts to pay interest from the date of notification under section 4 of the Act appears to be incompatible with decision of full bench (*supra*) and that will have to be altered and brought in tune with said decision.

IN RESPECT OF OTHER SUBMISSIONS

147. In respect of contention of learned senior advocate and learned advocates on behalf of the State and the acquiring body that a reference court judgment cannot be relied on, it may have to be taken into account that,

Learned judge of reference court, in his award in Group II, has referred to the award given by him a day before in respect of Group I lands. While determining land acquisition compensation in references in Group-I appeals, the reference court has considered sale deeds relied upon on behalf of the claimants. It further would be pertinent to refer to that same sale deeds were being produced in the references, decision from which Group-II appeals have arisen. While lands are being acquired for same project under notifications issued in close proximity, references in second group were decided referring to the decision of earlier day in references in first group, where the sale deeds produced were elaborately discussed which were the same.

148. It was considered that lands are acquired for the same project and, therefore, having regard to decision reported in *2007 (2) ALL MR 316* (*supra*) same rate can be granted to the claimants in respect of their lands, which are acquired for the same project under notifications issued in closer proximity *viz;* 11th February, 2007 and 7th June, 2007.

It would have to be considered that in the peculiar situation reference to earlier decision on earlier day could be possible having regard to decision of the Supreme Court in the case of *"Bhim Singh and Others V/s State of Haryana and another"* reported in *2003 AIR SCW 5188*. Repetition of discussion on sale deeds and determination of market value with reference to the same sale deeds concerning acquisition for same project and notifications being in closer proximity was not necessary. Reference to earlier decision will have to be construed accordingly and not pedantically.

149. Arguments advanced on behalf of the State and the acquiring body that it is not a sound method of relying on acquisition reference decision, in this particular case lose out on having efficacy. It may be pertinent to refer to that said reference court judgment has also been dealt with and considered in these appeals.

150. Learned advocate for the claimant places reliance on a decision of the Supreme Court in the case of *"Hitkarini Sabha, Jabalpur V/s The Corporation of the City of Jabalpur"* reported in *(1972) 2 SCC 325*. Learned advocate refers to paragraph No. 8 thereunder, reading, thus,

> " *8. The next question relating to quantum can be disposed of shortly. The sole criticism of Mr. Chagla is that the potential value of the plot in question was not taken into consideration. It is true, as pointed out in 'Rajya Vyrighela Marayana Gajapatiraju V. The Revenue Divisional Officer Vizagapatam' that where the land to be valued possesses some unusual or unique features as regards its position or its potentialities the court determining the market value will have to ascertain as best as it can from the materials before it what a willing vendor might reasonably expect to obtain from a willing purchaser for the land in that particular position and with those particular potentialities. It has been urged that Plot No. 670 had a special situation or position in view of its size, locality, nearness to business centre and the Madan Mahal Station. But the value which was fixed by the Additional District Judge and the High Court was fixed by reference to sales of plots of comparable nature. The following portion of the judgment of the High Court shows how the matter was dealt with*

> *"We may observe that the two witnesses relied upon by the appellants purchased small plots at the rate of Re. 1/- per sq. ft. As the map of the Wright Town Madan Mahal Extension area produced by the Corporation before us shows, these plots are in a fully developed lay out having roads and drains round about. We had asked the Corporation to calculate how much area out of the acquired sites would be required to be left open for roads and drains and they have calculated that about 70,000 sq. ft. would have to be left open for this purpose. Obviously, therefore, it is only the remaining plot which would have value as building sites. Besides leaving so much area open, costs will have to be incurred in developing the roads, and drains for which the Corporation has estimated the cost to be Rs. 8,500/-. Considering all these factors and also calculating the built up area in the lay outs surroundings the acquired land, we find that it is only eighty per cent of the land which can be sold as building site.*
>
> *On these calculations if the average price of the plots sold in the locality is taken to be Rs.12/- per sq. ft. the overall price of the acquired land without roads and drains would work out to a little less than Rs.9/- per sq. ft. To put the matter, in a different way, the value of Rs.10/- per sq. ft. found by the Additional Judge would work out to a little over /12/- per sq. ft., if only the area which could be built upon is considered saleable as building site. We,therefore, find that the price at-/10/per sq. ft. allowed by the Additional District judge, is not unreasonable; if anything it errs on the generous side. "*

However, aforesaid observations relate to that the land had a peculiar position. It is not the case in the present matter. No such case is made out on behalf of the claimants.

151. Learned advocate for the claimants have referred to a decision of this court in the case of *"Land Acquisition Officer V/s Jamnabai"* reported in *LAWS (BOM)-1945-3-25 : AIR (BOM)-1946-0-142*

emphasizing that while factory is found in the acquired land, it would have to be considered that on acquisition there is loss of earning and that it should be deemed that the claim of sufferance of damage, was entitled to be compensated. Compensation would have to be paid not only for the land, but also for building and the potentiality of using those buildings for the purpose of business would be a factor governing the market value of the building.

However, there is no evidence placed on record in respect of loss being suffered due to this. It would not be proper for us to deal with the same only on the basis of submissions advanced during the hearing only on assumption. Even in the appeal there does not appear to have any ground been taken in this respect.

FINDINGS

152. It emerges that claimants could not prop up their claims with evidence. The evidence does not bear market value as determined by reference courts in Groups I and II as well as it emerges that compensation given to land in Group III is less than market value. Direction of reference courts to pay interest from the date of notification under section 4 of the LA Act has been rendered unsustainable. Points A to C are answered accordingly.

153. Case of *"Sunder V/s Union of India"* reported in *AIR 2001 SC 3516* can be usefully referred to. Claimants, in addition to market value, would be entitled to benefits of sections 23 (1-A), 23 (2) and sections 28 and 34 deducting the amount received by the claimants before.

154. In view of forgoing discussion and reasons, it would be appropriate to consider that the acquired lands would have fetched market value of about ₹ 75/- per square foot for NA use permitted lands and ₹ 60/- per square foot for the other lands. The decision of the reference courts in respect of benefits of provisions of the Act, *viz;* section 23 (1-A), 23 (2) as referred to above, is not being disturbed. The date of notification in village being the last, as reckoned by reference court would be considered for calculations.

155. The direction under references or awards to pay interest from the date of notification under section 4 of the LA Act, stands altered and modified. Interest under provisions of the LA Act would be required to be paid from the date of passing of the award under section 11 of the LA Act, in tune with decision of full bench reported in *2016 (3) Mh.L.J. 457 : MANU/MH/0557/2016.* The authorities would be liable to pay interest @ 9% p.a. for one

year from the date of award under section 11 on the components of compensation referred to under section 23, including 23 (1-A) and 23 (2) of the Act and @ 15% p.a. subsequent to one year from the date of award under section 11 till actual payment.

ORDER

I. Appeals by claimants in Groups I and II are dismissed.

II. Appeal by claimant in Group III is partly allowed.

III. Appeals by acquiring body and the State are partly allowed, except their appeal in Group III, which is dismissed.

IV. Judgments and awards of the reference courts challenged in all the groups stand altered and modified as under.

A. (i) Compensation be paid to claimants for their non agricultural use permission lands @ ₹ 75/- per square foot.

(ii) Compensation be paid to claimants for their lands other than NA use permission lands @ ₹ 60/- per square foot.

B. Claimants be paid, in addition to aforesaid, an amount calculated at the rate of 12% p.a. for the period commencing from date of section 4 notification in respect of their acquired lands to the date of award by collector as provided under section 23 (1-A) of the LA Act.

C. Claimants would also be paid solatium pursuant to section 23 (2) of the LA Act.

D. Interest be paid on the compensation in accordance with full bench judgment *viz; 2016 (3) Mh.L.J. 457 : MANU/MH/0557/2016*, in the case of *"State of Maharashtra V/s Kailas Shiva Rangari"* from the date of award @ 9% p.a. for first year and @ 15% p.a. for subsequent years till payment of amount.

V. All appeals are disposed of.

VI. Pending civil applications, if any, stand disposed of.

[R. G. AVACHAT]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

drp