IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

FIRST APPEAL NO. 234 OF 2011

Umakant Suryabhan Padre (Salunke)
Age : 23 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.235 OF 2011

Dayanand Suryabhan Padre (Salunke)
Age : 32 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.236 OF 2011

Vikas Narayan Padre (Salunke)
Age : 28 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.237 OF 2011

Parmeshwar Suryabhan Padre (Salunke)
Age : 25 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.238 OF 2011

Suryabhan Dhondiba Padre (Salunke)
Age : 50 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.239 OF 2011

Devanand Narayan Padre (Salunke)
Age : 32 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

WITH
FIRST APPEAL NO.241 OF 2011

Narayan Dhondiba Padre (Salunke)
Age : 55 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Appellant.**

Versus

1. The State of Maharashtra
Through The Collector,
Latur.

2. Special Land Acquisition Officer
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D. Ausa Road, Latur. **Respondents**.

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Smt. M.S. Mhase, Advocate for the Appellants/Claimants.
Mr. G.O. Wattamwar, A.G.P. for the State/respondents.

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WITH
FIRST APPEAL NO.437 OF 2012

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

2. Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Vikas Narayan Padre (Salunke)
Age : 28 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.438 OF 2012

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

2. Special Land Acquisition Officer,
   Minor Irrigation Work, Latur,
   Taluka and District Latur.

3. The Executive Engineer,
   P.W.D., Ausa Road, Latur,
   Taluka an District Latur. **Appellants.**

Versus

Umakant Suryabhan Padre (Salunke)
Age : 53 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.439 OF 2012

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

2. Special Land Acquisition Officer,
   Minor Irrigation Work, Latur,
   Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Parmeshwar Suryabhan Padre (Salunke)
Age : 25 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.440 OF 2012

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

2. Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Narayan Dhondiba Padre (Salunke)
Age : 53 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.441 OF 2012

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

2. Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Suryabhan Dhondiba Padre (Salunke)
Age : 50 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.442 OF 2012

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

2. Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Devanand Narayan Padre (Salunke)
Age : 32 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

WITH
FIRST APPEAL NO.443 OF 2012

1. The State of Maharashtra

Through the Collector,
Latur.

2. Special Land Acquisition Officer,
Minor Irrigation Work, Latur,
Taluka and District Latur.

3. The Executive Engineer,
P.W.D., Ausa Road, Latur,
Taluka an District Latur. **Appellants.**

Versus

Dayanand Suryabhan Padre (Salunke)
Age : 32 years, occu.: agri.,
R/o Khadgaon, Taluka and
District Latur. **Respondent**.

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Mr. G.O. Wattamwar, A.G.P. for the appellants.
Smt. M.S.Mhase, Advocate for respondents / original claimants.

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CORAM : SUNIL K.KOTWAL,J.

Judgment reserved on : 11th December 2018.
Judgment pronounced on : 7th January 2019.

JUDGMENT.

1. First Appeal Nos.234 of 2011 to 239 of 2011 and First Appeal No.241 of 2011 are filed by original claimants in Land Acquisition Reference Nos. 237/2008, 238/2008, 235/2008, 236/2008, 233/2008, 234/2008 and 232/2008 respectively, against the judgment and award passed by Civil Judge, Senior Division,

Latur. First Appeal Nos.437 of 2012 to 443 of 2012 are filed by the State and Acquiring Body against the same judgment and award. As all the Land References are disposed of by learned Reference Court by passing common judgment, these all appeals are disposed of by this common judgment.

2. Hereinafter the parties are referred in accordance with their status in the Reference Proceedings, as “claimants” and “respondents”

3. Common evidence is recorded only in L.A.R. No.232/2008.

4. The facts leading to institution of these appeals are that, Survey No.33/3/4 admeasuring 36 Aar situated at village Khadgaon, was acquired by respondents for the purpose of construction of Ausa to Latur Bypass road. The claimants are co-owners of this acquired land. Possession of the acquired land was taken by respondent No.3 / Acquiring Body on 26.05.1992. Notification under Section 4 (1) of the Land Acquisition Act (hereinafter referred to as “the Act”) was published in Official Gazette on 06.10.2005. The award was passed on 25.01.2008. Being dis-satisfied with the offer of Land Acquisition Officer of

compensation for the acquired land at the rate of Rs.1490/- per square metre, the claimants filed respective Land References claiming enhanced compensation at the rate of Rs. 465/- per sq.ft.

5. Only respondent Nos.1 and 2 filed written statement (Exh.8) and resisted Land References on the ground that compensation offered by Land Acquisition Officer is adequate and in accordance with market rate of the acquired land on the date of publication of notification under Section 4 (1) of the Act. According to the respondents, Land Acquisition Officer considered sale instances from the vicinity of the acquired land as well as sale instances produced by the claimants and after due inquiry, awarded adequate compensation. Respondents contended that the land References are barred by limitation as the award was passed in presence of the claimants.

6. Learned Reference Court, after considering the evidence placed on record by the claimants, partly allowed Land References and awarded compensation at the rate of Rs. 2300/- per Square Metre, with statutory benefits under Sections 23 (1A) and 23 (2) and interest under Section 28 of the Act. The Reference Court also awarded rental compensation at the rate of

Rs. 8% of the entire compensation amount to the claimants with interest thereon at the rate of Rs.12% per annum from the date of taking of possession till the date of initiating acquisition proceedings.

7. Heard Smt. M.S. Mhase, learned Counsel for the claimants and learned A.G.P. for the respondents.

8. Learned Counsel for the claimants assailed the correctness of the judgment and award passed by the Reference Court on the ground that though two sale instances dated 21.09.2002 (Exh.19) and dated 06.09.2005 (Exh.20) were filed by claimants before the Reference Court alongwith report of Government Valuer, the Reference Court erroneously awarded inadequate compensation at the rate of Rs. 2300/- per square metre.

9. She submits that on the date of passing of award the acquired land was sub-divided into small pieces admeasuring 4.50 Aar each, and therefore, compensation can be deducted towards development charges for Bypass road. She submits that the Reference Court should have considered the sale instance dated 21.09.2002 (Exh.19) which fetches higher value than the

sale instance (Exh.20).

10. Next contention of the learned Counsel for the claimants is that from the judgment of the Reference Court, it cannot be ascertained as to how the Court reached to conclusion regarding grant of compensation at the rate of Rs.2300/- per square metre. She has drawn my attention towards evidence of four witnesses examined by the claimants and prayed for enhancement, without making deductions towards development charges.

11. Learned Counsel for the claimants placed reliance on the case of **"Mehrawal Khewaji Trust Vs. State of Punjab and others" [2012 (4) ALL M.R. 470]** to substantiate her contention that highest value fetching sale instance should be considered while determining the fair and reasonable compensation on the date of publication of notification. She has placed reliance on the case of **"Maya Devi Vs. State of Haryana" [2018 (5) Mh.L.J. 34]** for contending that there shall not be any deductions towards development charges from the compensation which is to be awarded to the claimants and pre-notification sale instances should be considered. She has further

placed reliance on the case of **"State of Maharashtra Vs. Nurunnisa Begum" (1992 L.A.C. 60)** to substantiate the contention that sale instances of the lands smaller in size can be considered for determining fair compensation on the date of publication of notification under Section 4 (1) of the Act.

12. Learned Addl. Government Pleader for the respondents replied the above arguments on the ground that after publication of notification under Section 4 (1) of the Act, the claimants filed Civil Suit No.828/2006 in collusion with each other and accordingly obtained compromise decree for partition of the acquired land, to convert it into small pieces of the size of 4.50 Aar per piece, only to avoid deduction of development charges from the compensation amount.

13. The next submission of the learned A.G.P. is that, on the date of publication of notification under Section 4(1) of the Act, the acquired land admeasuring 36 Aar was dry crop agricultural land, and therefore, the sale instances (Exhs.19 and 20) of small pieces of land cannot be considered to determine the market price of the land on the date of publication of notification. He submits that no village map or other documentary evidence is

placed on record by the claimants to show that the land under sale instances is adjoining to the acquired land.

14. Next contention of the learned A.G.P. is that, post-notification development cannot be considered to determine the market price of the land on the date of notification under Section 4 (1) of the Act. Therefore, even the report of Valuer filed by claimants needs no consideration.

15. Next contention of learned A.G.P. is that, the Reference Court did not deduct development charges while determining the compensation amount payable for the acquired land, though the purpose of acquisition is construction of road, which needs development of many amenities such as drainage or sewage by the side of the road. He has also pointed out that the Reference Court erroneously awarded rental compensation which cannot be considered in the Land Acquisition Proceeding. He placed reliance on the case of **"Special Land Acquisition Officer Vs. Sidappa Omanna Tumari" [1995 AIR (SC) 840]** to substantiate his contention that small piece of the land cannot be considered as sale instance. He has also placed reliance on the case of **"R.L. Jain Vs. D.D.A and others" [2004 AIR (SC)**

1904] to substantiate the contention that in Land Acquisition Proceeding, rental compensation cannot be awarded. Learned A.G.P. placed reliance on the case of **“Lal Chand Vs. Union of India and another” [2009 (15) SCC 769]** to substantiate his contention regarding deduction for development charges.

16. In the case at hand, admittedly all the claimants were co-owners of the land. Even it is not disputed that on the date of publication of notification under Section 4 (1) of the Act, the acquired land was coparcenary joint family property of all the claimants. The record shows that R.C.S. No.828/2006 was filed by one of the claimants against other claimants for partition and separate possession on 27.12.2006. Notices were issued on 28.12.2006 and on 02.01.2007 compromise decree for partition and separate possession was passed in between the claimants, and the acquired land is accordingly divided into small pieces of 4.50 Aar each. Thus, considering the date of notification under Section 4 (1) of the Act i.e. 06.10.2005, obviously filing of the suit after publication of such notification and appearance of parties with supersonic speed before the Civil Court and passing of compromise decree within 6 to 7 days from the date of filing of

the suit, is sufficient to hold that in R.C.S. No.828/2006 the suit for partition was filed by the claimants only in collusion with each other to sub-divide the acquired land into small pieces to avoid the deduction of development charges. Thus, at the outset I hold that the acquired land admeasuring 36 Aar is to be considered, on the date of publication of notification under Section 4 (1) of the Act on 06.10.2005 and subsequent division of this land into small pieces deserves to be ignored, while considering the point of deduction of development charges at subsequent stage.

17. Though learned Counsel for the claimants has drawn my attention towards valuation reports (Exhs.36 to 42) of the acquired land, which are proved by Government Approved Valuer Shant Barbade (PW-3), no importance can be given to these valuation reports, as from the testimony of Barbade (PW-3) it becomes clear that he visited the acquired land on 17.01.2007 i.e. near-about after two years from the date of publication of notification under Section 4 (1) of the Act. From his cross-examination it also emerges that the development of the area near the acquired land took place after construction of Bypass

road. He deposes that on the date of his visit to the acquired land, it was agricultural land and even then he prepared valuation report on the basis of Square Foot rate. Though this witness claims that for preparation of valuation report he had gone through the various sale instances of the lands in the vicinity, from his cross-examination it emerges that he had not obtained copy of any sale deed examined by him and even he did not file application to Sub-Registrar Office for inspection of the record. These admissions create doubt in the mind of the Court whether really this Valuer (PW-3) had gone through the sale instances of the lands in the vicinity to determine the market price of the land on the date of notification under Section 4 (1) of the Act.

18. From the evidence of Barbade (PW-3) it emerges that he expressed his opinion regarding N.A. Potentiality of the acquired land, because the surrounding area was developed at the time of his visit. As observed above, as the development of surrounding area took place after construction of Bypass road for which the land was acquired, the subsequent development of the land in the vicinity after publication of notification under Section

4 (1) of the Act cannot be considered to assess fair market price of the acquired land on the date of publication of notification under Section 4 (1) of the Act i.e. on 06.10.2005. Thus, I hold that Valuation Reports (Exhs.36 to 42) cannot be considered to determine fair market price of the acquired land on the date of notification under Section 4 (1) of the Act. Learned Reference Court and Land Acquisition Officer did not commit any mistake while not considering these Valuation Reports.

19. The claimants have examined Anil Sagar (PW-2), who is Deputy Engineer, Public Works Department to prove the date of taking possession of the acquired land by Acquiring Body and Dr. Sheshrao Sawargaonkar (PW-4), Special Land Acquisition Officer to prove that while passing the award, interest under Section 34 of the Act was not paid to the claimants. Therefore, obviously evidence of these two witnesses need not be considered while determining the fair market price of the acquired land on the date of publication of notification under Section 4 (1) of the Act.

20. Narayan Padre @ Salunke (PW-1) is the claimant in L.A.R. No. 232/2008 and he has deposed as per the contents of

Land Acquisition Reference. He claims compensation at the rate of Rs.465/- per sq. ft. relying on two sale instances (Exhs.19 and 20). Thus, I have to determine true and fair market price of the acquired land on the date of publication of notification under Section 4 (1) of the Act, with the help of sale instances made available by the claimants. Though learned A.G.P. objected validity of these sale instances on the ground that the land under sale instance is not in the vicinity of the acquired land, from the both sale instances (Exhs.19 and 20), it emerges that the land which was sold under these sale instances is situated at village Khadgaon. Thus, certainly the land under sale instances can be considered as land in the vicinity of the acquired land. In rebuttal nothing can be elicited in the cross-examination of Narayan (PW-1). Even the respondents have not led any evidence in the form of other sale instances to show that proper sale instances of adjoining land is available for determining the fair market price of the acquired land.

21. While examining sale deed dated 21.09.2002 (Exh.19) it emerges that 2000 sq.ft. land was sold out for the consideration of Rs.5,00,000/-. However, after careful examination of this sale

deed (Exh.19), it reveals that on the date of execution of sale deed, the market price of the land under sale instance was Rs.9,30,000/-. Thus, this sale deed (Exh.19) was executed by the parties for depressed value. In the case of **“Lal Chand Vs. Union of India and another”** (supra), the Apex Court observed that,

> *“This takes us to the value of "undervalued" sale deeds. When the respondents rely upon certain sale deeds to justify the value determined by the Land Acquisition Collector or to show that the market value was less than what is claimed by the claimants, and if the claimants produce satisfactory evidence (which may be either with reference to contemporaneous sale deeds or awards made in respect of acquisition of comparable land or by other acceptable evidence) to show that the market value was much higher, the sale deed relied upon by the respondents showing a lesser value may be inferred to be undervalued, or not showing the true value. Such deeds have to be excluded from consideration as being unreliable evidence. A document which is found to be undervalued cannot be used as evidence”.*

22. Thus, as observed by the Supreme Court, the sale deed dated 21.09.2002 (Exh.19) being undervalued, does not reflect true market price of the acquired land on the date of publication of notification under Section 4 (1) of the Act. Thus, the exemplar (Exh.19) is outrightly rejected.

23. In view of the above-stated distinguishing facts, the case of **"Mehrawal Khewaji Trust Vs. State of Punjab and others"** (supra) is distinguishable and not applicable in the case at hand.

24. Second exemplar placed on record is the sale deed dated 06.09.2005 (Exh.20) of the land situated at Khadgaon admeasuring 1000 sq.ft. This small piece of land was sold out for the consideration of Rs. 2,50,000/- i.e. at the rate of Rs.250/- per sq.ft. Though this sale instance is assailed by learned A.G.P. on the ground that it is small in size in comparison with the size of the acquired land, in the case of **"Special Land Acquisition Officer Vs. Sidappa"** (supra), the Apex Court has observed that the Court is not always bound to determine market price of such large extent of acquired land on the basis of price fetched or to be fetched by small extent of land covered by such sale deed or agreement of sale. Thus, obviously the Supreme Court has not prevented user of the sale instance of small piece of the land. On the other hand, in the case of **"State of Maharashtra Vs. Nurunnisa"** (supra) Division Bench of this Court held that while fixing the market value, sale instances on the date of notification

may be for large or small size, are to be considered, subject to reasonable deductions. Same view is also expressed by the Apex Court in the case of **"Lucknow Development Authority Vs. Krishna Gopal Lahori and others" (AIR 2008 SC 399)**.

25. In the case at hand, the acquired land is not very large piece of land, but it admeasures only 36 Aar. On the date of publication of notification under Section 4 of the Act, even the acquired land is not converted into non-agricultural land, because in the N.A. Orders dated 14.08.2006 (Exh.22) and dated 02.07.2005 (Exh.23) reference of Survey No.33, Plot Nos.1 to 10 and Plot Nos.1 to 6 and 8 to 11 is given. These N.A. Orders do not show that any portion of Survey No.33/3/4 is converted into non-agricultural land. On the other hand, sale instance (Exh.20) shows that it was the sale of non-agricultural plot admeasuring 1000 sq.ft. This plot being N.A. Plot, certainly fetches higher market price than the agricultural land. Therefore, though under sale instance (Exh.20) non-agricultural plot admeasuring 1000 sq.ft. was sold our for a consideration of Rs.2,50,000/- i.e. at the rate of 250/- per sq.ft., the valuation of the acquired land, which was an ordinary agricultural land on the date of publication of

notification, cannot be considered as Rs.250/- per sq.ft. Considering the size of the acquired land and comparatively small size of the plot under sale instance (Exh.20), if 25% value is deducted from the price of the land under sale instance on the date of publication of notification under Section 4 (1) of the Act, the true and fair market price of the acquired land comes to Rs.188/- per sq.ft.

26. The purpose for acquisition of the acquired land is for construction of Bypass road. Therefore, as pointed out by the learned A.G.P., while constructing Bypass road, certain development is necessary such as levelling, construction of drainage or sewage by the side of Bypass road. While considering the question of reasonable deductions towards development charges of the acquired land, the Apex Court in the case of **"Maya Devi Vs. State of Haryana"** (supra) observed that,

> "In Haryana State Agricultural Market Board and Anr. v. Krishan Kumar and Ors. (2011) 15 SCC 297, this Court has held that " if the value of small developed plots should be the basis, appropriate deductions will have to be made therefrom towards the area to be used for roads, drains, and common facilities like park, open space, etc. Thereafter, further deduction will have to be made towards the

> cost of development, that is, the cost of leveling the land, cost of laying roads and drains, and the cost of drawing electrical, water and sewer lines."
>
> 9. Observing that the development charges for development of particular plot of land could range from 20% to 75%, in Lal Chand v.Union of India and Another (2009) 15 SCC 769, in paras (13), (14) and (20), this Court held as under:
>
>> "13. The percentage of 'deduction for development' to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.
>>
>> 14. The 'deduction for development' consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works".

27. In view of this settled position of law, as the land of claimants is acquired for construction of Bypass road, certainly it needs development such as levelling, construction of drainage or sewage by the side of Bypass road. However, the vast development, which is generally required in layout plots for residential purpose, is not necessary. Thus, considering the extent of required development, I hold that only 10% value should be deducted from the market rate of the acquired land towards

development charges. Thus, after deducting this 10% value from the market price i.e. Rs. 188/- of the acquired land, the market price of the acquired land on the date of notification comes to Rs.170/- per sq. ft.

28. In view of the above discussion, I have no hesitation to hold that the claimants are entitled to compensation for the acquired land at the rate of Rs. 170/- per sq.ft.

29. The claimants are entitled to statutory benefit under Section 23 (1A) of the Act i.e. in addition to the market value of the land, component calculated at the rate of 12% per annum on such market value for the period commencing from the date of publication of notification under Section 4 (1) of the Act i.e. 06.10.2005 till the date of passing of award on 25.01.2008, as the possession is taken by Acquiring Body before the date of publication of notification under Section 4 (1) of the Act. In addition to the market value of the land, the claimants are also entitled to solatium of 30% on such market value, under Section 23 (2) of the Act.

30. The claimants are also entitled to interest under Section 28 of the Act on enhanced compensation amount,

component and solatium at the rate of 9% per annum from the date of passing of award i.e. 25.01.2008 for the first year and from 26.01.2009 at the rate of 15% per annum till the date of deposit of entire compensation amount in the Court by the Collector or Acquiring Body.

31. Possession of the acquired land is taken by Acquiring Body before the date of publication of notification under Section 4 (1) of the Act. Therefore,in view of legal position settled by Full Bench of this Court in the case of **"State of Maharashtra Vs. Kailash Shiva Rangari" [2016 (3) Mh.L.J. 457]**, the claimants are entitled to interest under Section 34 of the Act, on the compensation amount awarded by Collector at the rate of 9% per annum from the date of passing of award i.e. from 25.01.2008 till the date of receipt of compensation by the claimants. If the compensation is not paid or deposited within period of one year from the date of which the possession is taken, the claimants are entitled to interest at the rate of 15% per annum on the compensation awarded by Collector, till the date of payment or deposit of this compensation in the Court.

32. As the possession of the acquired land was taken by Acquiring Body on 26.05.1992, as admitted by Deputy Engineer, P.W.D. Anil Sagar (PW-2), from this date till date of passing award, the claimants are entitled to rental compensation from the respondents. However, for that purpose the claimants have to approach the Collector and this compensation cannot be awarded in the Land Reference, as awarded by the Reference Court. Therefore, the claim of the claimants in Land Reference Proceedings for grant of rental compensation deserves to be rejected. However, liberty is given to the claimants to approach the appropriate Authority for grant of rental compensation.

33. Accordingly, my conclusion is that First Appeal Nos.234 of 2011 to 239 of 2011 and 241 of 2011 filed by claimants deserve to be dismissed. First Appeal Nos.437 of 2012 to 443 of 2012 filed by respondents deserves to be partly allowed.

34. In the result, First Appeal Nos.234 of 2011, 235 of 2011, 236 of 2011, 237 of 2011, 238 of 2011, 239 of 2011 and 241 of 2011 are dismissed and First Appeal Nos.437 of 2012, 438 of 2012, 439 of 2012, 440 of 2012, 441 of 2012, 442 of 2012 and 443 of 2012 are partly allowed.

35. The award passed by Civil Judge, Senior Division, Latur in L.A.R. Nos. Land Acquisition Reference Nos. 232/2008, 233/2008, 234/2008, 235/2008, 236/2008, 237/2008 and 238/2008 is set aside and it is modified as under :-

"(i) Land Acquisition Reference Nos. 232/2008, 233/2008, 234/2008, 235/2008, 236/2008, 237/2008 and 238/2008 are partly allowed with proportionate costs.

(ii) Respondents do jointly and severally pay compensation to the claimants for the acquired land i.e. Survey No. 33/3/4, admeasuring 36 Aar situated at village Khadgaon, Taluka and District Latur, at the rate of Rs. 170/- (Rupees One Hundred and Seventy) per sq. ft.

(iii) The claimants are entitled to component under Section 23 (1A) of the Land Acquisition Act at the rate of 12 % per annum on the market value of the acquired land for the period from 06.10.2005 to the date of award i.e. 25.01.2008.

(iv) The claimants are also entitled to solatium of 30% on the market value of the acquired land, under Section 23 (2) of the Act.

(v) The claimants are entitled to interest under Section 34 of the Land Acquisition Act at the rate of 9% per annum from the date of passing of award on 25.01.2008 at the rate of Rs.9% per annum on the compensation amount awarded by Collector, till the date of payment of this compensation to the claimants. If the compensation is not paid within period of one year, the claimants are entitled to interest at the rate of Rs.15% per annum on the compensation amount awarded by Collector, till the date of payment or deposit of this compensation amount in the Court.

(vi) The claimants are also entitled to interest under Section 28 of the Land Acquisition Act on enhanced (excess) compensation, solatium and component at the rate of 9% per annum from the date of award i.e. 25.01.2008 for the period of one year and from 26.01.2009 at the rate of 15% per annum till the date of deposit of this compensation amount in the Court by the respondents.

(vii) The prayer for rental compensation is rejected, with liberty to the claimants to approach the appropriate Authority for grant of rental compensation.

(viii) The award be drawn up accordingly.

30. Parties to bear their respective costs of the appeals. The appeals are disposed of in above-said terms.

(SUNIL K. KOTWAL)
JUDGE

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