IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.834 OF 2010

Kalappa S/o Kashinathappa Dyade
Age : 51 years, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed
Dist. Nanded ... **Appellant**
(Ori. Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri A.M. Phule, AGP for Respondents No.1 & 2
Smt. Sunita D. Shelke, Advocate for Respondent No.3

....

WITH

FIRST APPEAL NO.2880 OF 2009

Manohar S/o Shankar Rakte
Age: Major, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Orig. Claimant)

Versus

1. The State of Maharashtra

Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri P.M. Kulkarni, AGP for Respondents No.1 & 2
Smt. Sunita D Shelke, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.2106 OF 2016

Padminibai S/o Jaywantrao Patil
Age: 45 yrs, Occ. Agril. & Household,
R/o Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through District Collector
Nanded.

2. The Executive Engineer
Vishnupuri Project Division No.1,
Nanded

3. Special L. A. O.
M.I.W. Nanded. ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri S.J. Salgare, AGP for Respondents No.1 & 2
Smt. Sunita D Shelke, Advocate for Respondent No.3

WITH

FIRST APPEAL NO.81 OF 2010

Laxman S/o Balaji Nukulwad
Age: 40 yrs, Occ. Agril,
R/o. Marajwadi, Tq. Mukhed
Dist. Nanded ... **Appellant**
(Orig. Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri A.M. Phule, AGP for Respondents No.1 & 2
Smt. Sunita D. Shelke, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.438 OF 2010

Ravindra S/o Kashinathappa Dyade
Age: 43 yrs, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri P.M. Kulkarni, AGP for Respondents No.1 & 2
Smt. Sunita D Shelke, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.785 OF 2010

Raosaheb S/o Dhondiba Sakkarge
Age: 55 yrs, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri S.J. Salgare, AGP for Respondents No.1 & 2
Smt. Sunita D Shelke, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.80 OF 2010

Balaji S/o Maroti Kondewad
Age : 47 years, Occ. Agril.,
R/o Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri A.M. Phule, AGP for Respondents No.1 & 2
Smt. Sunita D Shelke, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.2087 OF 2015

Ganpati S/o Masna Sastarphod,
Age: 55 yrs, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through District Collector

Nanded.

2. The Executive Engineer
Vishnupuri Project, Division No. 1
Nanded

3. Special Land Acquisition Officer
M.I.W. Nanded.

... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri P.M. Kulkarni, AGP for Respondents No.1 & 3
Shri S.G. Karlekar, Advocate for Respondent No.2

.....

WITH

FIRST APPEAL NO. 3240 OF 2009

Jaywantrao S/o Pundlikrao Patil
Age: Major, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri S.J. Salgare, AGP for Respondents No.1 & 2

Shri R.B. Deshpande, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.3011 OF 2009

Smt. Laxmibai W/o Tejerao Hendge
Age: Major, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri A.M. Phule, AGP for Respondents No.1 & 2
Shri R.B. Deshpande, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO. 3013 OF 2009

Yeshwantrao S/o Jaiwantrao Patil
(Died) by his LRs.,

1. Kishanrao S/o Pundlikrao Patil
Age - 30 yrs, Occ. Agril.

2. Jaiwantrao S/o Pundlikrao Patil
Age - 25 yrs, Occ. Agril.

3. Ramrao S/o Pundlikrao Patil
Age - 23 yrs, Occ. Agril.

4. Laxmikant S/o Pundlikrao Patil
Age 21 yrs, Occ. Agril.

All R/o Marajwadi, Tq. Mukhed
District Nanded

... **Appellants**
(Ori.Claimants)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellants;
Shri P.M. Kulkarni, AGP for Respondents No.1 & 2
Shri R.B. Deshpande, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.473 OF 2010

Keshavrao S/o Ganpatrao Hendge
Died through legal heirs

1. Smt. Prayagbai W/o Keshavrao Hendge
Age - 40 yrs

2. Shankar S/o Keshavrao Hendge
Age - 20 yrs

Both Occu. Agril.
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellants**
(Orig. Claimants)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellants;
Shri S.J. Salgare, AGP for Respondents No.1 & 2
Shri R.B. Deshpande, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.486 OF 2010

Shivraj s/o Kashinathappa Dyade
Age: 50 yrs, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Ori.Claimant)

Versus

1. The State of Maharashtra
Through the District Collector
Nanded.

2. The Special Land Acquisition Officer
M.I.W. Nanded.

3. The Executive Engineer
Vishnupuri Project Division No. 1
Jangamwadi Nanded ... **Respondents**
(Orig. Respondents)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri A.M. Phule, AGP for Respondents No.1 & 2
Shri R.B. Deshpande, Advocate for Respondent No.3

.....

WITH

FIRST APPEAL NO.2383 OF 2011

Sayanna S/o Rukmaji Kondewad
Age: Major, Occ. Agril.,
R/o. Marajwadi, Tq. Mukhed,
Dist. Nanded ... **Appellant**
(Orig. Claimant/Plaintiff)

Versus

1. The State of Maharashtra
Through the District Collector Nanded,
Tq. and Dist. Nanded

2. Special Land Acquisition Officer
M.I.W. Nanded, Tq. and Dist. Nanded

3. Executive Engineer,
Vishnupuri Project Section No. 1
Jangamwadi Nanded,
Tq. and Dist. Nanded ... **Respondents**
(Non Applicant)

.....

Shri G.N. Chincholkar, Advocate for Appellant;
Shri P.M. Kulkarni, AGP for Respondents No.1 & 2 ;
Smt M.B. Gangwal, Advocate for Respondent No.3.

CORAM : P.R. BORA, J.
Dated: February 21, 2019

ORAL JUDGMENT :-

1. Learned Counsel Smt Shelke submitted that, she has instructions to appear for Respondent No.3. Service complete.

2. Print dispensed with.

3. All these appeals are arising out of the acquisitions made for construction of Lendi Project from village Marajwadi, Tal. Mukhed, Dist. Nanded. When the present appeals were taken up for hearing, the learned Counsel appearing for the appellants – claimants in all these appeals tendered across the bar the copy of the common Judgment delivered by this Court in First Appeal No.988 of 2012 with First Appeal No.989 of 2012. The learned Counsel submitted that, this Court in the aforesaid common Judgment has determined the market value of the lands acquired from village Marajwadi for the Lendi Project at the rate of Rs.1,25,000/- per hectare for dry lands, Rs.1,87,500/- per hectare for semi irrigated lands and Rs.2,50,000/- per hectare for irrigated lands. The learned

Counsel submitted that, the lands involved in all these appeals being acquired for the same project vide the same notification and under the same Award, the compensation in all these matters also be enhanced at the rate of Rs.1,25,000/- per hectare for dry land and Rs.1,87,500/- per hectare for semi irrigated land and Rs.2,50,000/- per hectare for irrigated land as has been given in the said decided appeals. The learned Counsel submitted that, the lands, which are involved in the present appeals and the lands which were involved in First Appeal Nos.988 of 2012 and 989 of 2012 are quite similar in quality and potentiality. The learned Counsel, in the circumstances, prayed for the enhancement in the amount of compensation at par with the compensation enhanced in the decided appeals by this Court.

4. Respective learned Counsel appearing for the Acquiring Body namely Smt. Shelke, Shri Deshpande, Smt Gangwal and Shri Karlekar do not dispute the factual correctness of the facts mentioned by Shri Chincholkar. The learned Counsel, however, pointed out that, in all these

reference applications, the Reference Court has awarded the interest under Sections 28 and 34 of the Act wrongly from the date of issuance of Section 4 notification and therefore prayed for necessary modification in the impugned judgments and awards to that extent. The learned Counsel further submitted that, so far as categorization of the lands is concerned, it should be in accordance with the categorization made by the SLAO in the Award passed under Section 11 of the Act. Learned Counsel Shri Chincholkar does not have any objection for determining the market value of the acquired lands in tune with the categorization made by the SLAO of the acquired lands.

5. Respective learned AGP's supported the arguments advanced on behalf of the learned Counsel appearing for the acquiring body.

6. In view of the submissions made, when I perused the impugned Judgments and Awards, it is revealed that, the lands involved in all these appeals and the lands which were

the subject matter of First Appeal No.988 of 2012 and 989 of 2012 were acquired for the same Lendi Project vide same notification under Section 4 of the Act published in the Official Gazette on 09.07.1998 and the Award under Section 11 in that regard was passed on one and the same date i.e. 25.10.2004. Though the SLAO appears to have determined the market value of the acquired lands at different rates ranging between Rs.60,000/- to Rs.75,000/-, after having considered the evidence on record, this Court in First Appeal No.988 of 2012 with First Appeal No.989 of 2012 has given the uniform rate for the acquired lands at the rate of Rs.1,25,000/- per hectare for dry land and at the rate of Rs.2,50,000/- per hectare for irrigated land.

7. In view of the fact that, the acquisitions were made for the same project vide the same notification and under the same Award, the present appeals also deserve to be allowed in the similar terms by enhancing the compensation at par with the compensation as was enhanced in First Appeal Nos.988 of 2012 with 989 of 2012.

8. While considering the appeals for enhancement in the amount of compensation, the legal infirmity brought to my notice by the learned Counsel appearing for the acquiring body as about the grant of interest on the amount of enhanced compensation by the Reference Court under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification cannot be ignored. The learned Counsel for the acquiring body relied upon the full bench Judgment of this Court in the case of **State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513** and the Judgment of the learned Single Judge in the case of **The State of Maharashtra & Ors Vs. Ramesh Tukaram Meshram & Ors, 2018 (1) ALL MR 645**. As per the law laid down in the aforesaid Judgments, the interest under Sections 28 and 34 of the Act can only be granted from the date of passing of the Award under Section 11 of the Act and not from any prior date. In the circumstances, the impugned Judgments and the Awards to the aforesaid extend need to be modified. For the reasons stated above, the following order is passed.

ORDER

(i) The appellants are held entitled for the compensation at the rate of Rs.1,25,000/- per hectare for non-irrigated lands, Rs.1,87,500/- per hectare for semi irrigated lands, and Rs.2,50,000/- per hectare for irrigated lands and consequently to receive the enhanced compensation accordingly. The appellants are also held entitled to receive the statutory benefits on the enhanced amount of compensation.

(ii) The appellants are also held entitled to receive the interest under Sections 28 and 34 of the Act from the date of passing of the Award under Section 11 of the Act i.e. from 25.10.2004 on the enhanced amount of compensation as well as on the amount of compensation as was awarded by the Reference Court.

(iii) The impugned Judgments and awards insofar as they relate to grant of interest under Sections 28 and 34 of the Act from the date of issuance of Section 4 notification or from the date of possession stand set aside.

(iv) The appeals are partly allowed in the aforesaid terms.

(v) Pending Civil Applications, if any, stand disposed of.

(**P.R. BORA, J.**)

ggp