

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**FIRST APPEAL NO.210 OF 2018
WITH CA/4264/2013 IN FA/2010/2018**

- 1) The State of Maharashtra,
Through Collector, Latur.
- 2) The Executive Engineer,
Nanded Medium Project Division,
Nanded. (Ori. Respondents)
...Appellants.

VERSUS

Pralhad Rama Kamble,
Age Major, Occupation Agriculture,
R/o Sangavi Tq. Ahmedpur Dist.Latur. **...Respondent**
(Ori.Claimant)

....
**WITH
FIRST APPEAL NO.211 OF 2018
WITH CA/4284/2013 IN FA/211/2018**

- 1) The State of Maharashtra,
Through Collector, Latur.
- 2) The Executive Engineer,
Nanded Medium Project Division,
Nanded. (Ori. Respondents)
...Appellants.

VERSUS

- 1) Vinayak Manikrao Surnar,
- 2) Achut Manikrao Surnar,
All Age Major, Occupation Agriculture,
R/o Sangavi Tq.Ahmedpur Dist.Latur. **...Respondent**
(Ori.Claimant)

...

**WITH
FIRST APPEAL NO.212 OF 2018
WITH CA/4268/2013 IN FA/212/2018**

- 1) The State of Maharashtra,
Through Collector, Latur.
- 2) The Executive Engineer,
Nanded Medium Project Division,
Nanded. (Ori. Respondents)
...Appellants.

VERSUS

Dilip Rama Kamble,
Age Major, Occupation Agriculture,
R/o Sangavi Tq.Ahmedpur Dist.Latur. **...Respondent**
(Ori.Claimant)

....

Advocate for Appellants/State : Mr. R. B. Bagul.

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**CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 11-09-2019**

ORDER :

1. All these appeals have been filed by the acquiring body challenging only the part of Judgment and award passed by reference Court i.e. Civil Judge, Senior Division, Bhokar Dist. Nanded in LAR No.175 of 2003, LAR No.241 of 2003 and in LAR No.233 of 2003 on 17-04-2008. Heard common arguments in all these appeals and I deem it appropriate to decide these appeals by a

common reasoning.

2. At the outset, it can be said that the scope of the appeals is limited to the extent of awarding of interest on the enhanced amount. Heard learned AGP Mr. R.B. Bagul for appellants/State.

3. The present respondents / original claimants had filed reference under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act') for getting enhancement in the compensation that was granted by Land Acquisition Officer. Claimants were the owner and possessor of plots situated at village Sangvi. The award was passed by Land Acquisition Officer on 20-04-2001 under Section 11 of the Act. Being dissatisfied with the rate that was granted, the said reference were filed and after taking into consideration the evidence and hearing both sides, the learned reference Court has enhanced the said rate at 80 % increase on market value fixed by the LAO on the constructed portion/structure in LAR No.175 of 2003 and 233 of 2003, and in LAR No.241 of 2003 @ of 50 % increase on market value fixed by the LAO on the constructed portion / structure. The interest under Section 28 of the Act has been granted for the first year at the rate of 9 % per annum from the date of taking possession and thereafter it has been granted at the rate of 15 % per annum. So also interest under Section

34 of the Act has been granted and this is the part which is under challenge.

4. The learned advocate for appellant / State submitted that, these rates have been wrongly given from the date of possession, when as per the decision of the Full Bench in, *State of Maharashtra Vs. Kailash Shiva Rangari*, reported in *AIR 2016 Bombay 141*, it should be from the date of award.

5. There is substance in the submissions made by appellant / State. The decision given by Full Bench deserves to be followed, though it has come later in point of time, than the award was passed, in these appeals. Yet, since the appeals are the continuation, the said decision will have to be made applicable. Hence, appeals deserve to be partly allowed as follows ;

ORDER

(i) Appeals are hereby partly allowed.

(ii) The Judgment and award passed by Civil Judge, Senior Division, Ahmedpur in LAR No.175 of 2003, LAR No.233 of 2003 and LAR No.241 of 2003 on 17-04-2008, is hereby set aside to the extent of award of interest under Sections 28 and 34 of the Land Acquisition Act and it is modified as follows ;

“(a) Original claimants are entitled to interest under Section 28 of the Land Acquisition Act on the enhanced compensation, solatium and component amount @ of 9 % per annum from the date of award i.e. 20-04-2001 till deposit of enhanced compensation, solatium and component amount in the Court.”

“(b) If this enhanced compensation and solatium amount with interest thereon is not deposited till 20-04-2002, the claimants are entitled to interest @ of 15 % per annum from 21-04-2001 till the date of deposit of entire compensation amount and solatium amount in the Court.”

“(c) Claimants are entitled for interest under Section 34 of the Land Acquisition Act on the compensation amount awarded by Collector @ of 9 % per annum from the date of award i.e. 20-04-2001 till acceptance of compensation amount by claimants.”

(iii) Modified award be drawn accordingly.

(iv) Pending civil applications stand disposed of accordingly.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.