

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

FIRST APPEAL NO.468 OF 2019

Bharat s/o Pandurang Sherkar,
Age: 58 Yrs., occu. Agril.
R/o Sherkar Wadga, Osmanabad,
Tq. and Dist.Osmanabad. = **APPELLANT**

VERSUS

1. The State of Maharashtra,
Through The Collector,
District Osmanabad.
2. The Spl.Land Acquisition
Officer, (P.T.& M.I.W.) No.1,
Osmanabad Or Sub Divisional
Officer, Osmanabad.
3. The Executive Engineer,
Irrigation Survey & Investigation
Division, Osmanabad. = **RESPONDENTS**

Mr.Dattatraya D Sarwade-Patil, Advocate for Appellant;
Mr.PM Kulkarni,AGP for Respondent Nos.1 & 2;
Mrs. Sunita D.Shelke, Adv. For Resp.No.3.

CORAM : P.R.BORA, J.
DATE : 7th February, 2019

ORAL JUDGMENT

1. Heard Shri Sarwade Patil, learned counsel for appellant and Smt. Shelke, learned counsel appearing for Respondent No3.

2. In the present appeal, the only objection raised in exception to the judgment and Award passed in LAR No.532/2008 decided on 10.11.2014 by

the Court of Civil Judge, Senior Division, Osmanabad is that, the interest under Section 28 of the Land Acquisition Act, 1894 (herein after referred to as the Act), has not been awarded.

3. Learned counsel for the respondent concedes the position that the interest under Section 28 of the Act was liable to be awarded but has not been awarded.

4. There cannot be a dispute that the appellant claimant is entitled for the said interest. The appeal, therefore, needs to be allowed to the aforesaid extent.

5. The learned counsel for Respondent No.3 brought to my notice that the Reference court in the impugned judgment and award, however, has wrongly awarded the interest under Section 34 of the Act from the date of issuance of section 4 notification. The learned counsel submitted that in view of the Full bench Judgment in the case of The State of Maharashtra Vs. Kailash Shiva Rangari – 2016 (4) ALL MR 513, interest under Section 34 of the Act, could only be granted from the date of

passing of the Award under Section 11 of the Act and not from any prior date. The learned counsel further submitted that even interest under Section 28 of the Act can also be granted only from the date of passing of the Award under Section 11 of the Act and not from any prior date. In view of the submissions made, I deem it appropriate to pass the following order, -

ORDER

- i. The appellant claimant is held entitled for the interest under Section 28 of the Act on the amount of compensation enhanced by the Reference Court from the date of passing of the Award, i.e. from 2.5.2006;
- ii. The order passed by the Reference court, awarding interest under Section 34 of the Act from the date of issuance of section 4 notification is set aside; instead, the interest under Section 34 of the Act is made payable to the claimant from the date of passing of the Award under Section 11 of the Act.
- iii. The Award be prepared accordingly.
- iv. The appeal stands allowed in the aforesaid terms. Pending civil application, if any, stands disposed of.

(P . R . BORA)
JUDGE

bdv/