

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

**FIRST APPEAL NO.461 OF 2015
WITH CA NO. 12207 OF 2014**

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Rameshwar Asaram Garde
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.

2. The Special Land Acquisition
Officer (E & D), Jalna.

3. The State of Maharashtra
Through Collector, Jalna.

Respondents

**WITH
FIRST APPEAL NO.410 OF 2015
WITH CA NO. 12259 OF 2014**

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

Sheshrao Narayan Mhaske
(Died) through LRs.

1. Rajebhau Sheshrao Maske
Age : 25 years, occu.: labour
2. Suresh Sheshrao Maske
Age : 16 years, occu.: education
3. Savitri d/o Sheshrao Maske
Age : 14 years, occu.: education
Applicant Nos.2 and 3 are minor,
under guardianship of applicant
No.1.
All r/o Padali, Taluka Partur,
District Jalna.

2. The Special Land Acquisition
Officer (E & D), Jalna.
3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH
FIRST APPEAL NO.411 OF 2015
WITH CA NO. 12492 OF 2014
WITH CA NO. 1924 of 2019

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Sonaji Tukaram Mhaske
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.
2. The Special Land Acquisition

Officer (E & D), Jalna.

3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.412 OF 2015

WITH CA NO. 10785 OF 2014

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Appasaheb Bapurao Mhaske
Age : major, occu.: agri.,
R/o Padali Parbhani,
Tal. Partur, District Jalna.
2. The Special Land Acquisition
Officer (E & D), Jalna.

3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.413 OF 2015

WITH CA NO. 10773 OF 2014

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Rukhminibai Gitaram Vagharal
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.

2. The Special Land Acquisition
Officer (E & D), Jalna.

3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.414 OF 2015

WITH CA NO. 10768 OF 2014

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Eknath Ravasaheb Mhaske
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.

2. The Special Land Acquisition
Officer (E & D), Jalna.

3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.449 OF 2015

WITH CA NO. 10787 OF 2014**WITH CA NO. 1922 of 2019**

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Madhukar Raosaheb Mhaske
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.
2. The Special Land Acquisition
Officer (E & D), Jalna.
3. The State of Maharashtra
Through Collector, Jalna.

Respondents**WITH****FIRST APPEAL NO.451 OF 2015****WITH CA NO. 10776 OF 2014**

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Datta Laxmanrao Mhaske
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.

2. The Special Land Acquisition Officer (E & D), Jalna.

3. The State of Maharashtra Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.452 OF 2015

WITH CA NO. 10789 OF 2014

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Datta Sudamrao Tanpure
Age : major, occu.: agri.,
R/o Padali Parbhna, Tal. Partur, District Jalna.
2. The Special Land Acquisition Officer (E & D), Jalna.

3. The State of Maharashtra Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.455 OF 2015

WITH CA NO. 12221 OF 2014

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Sumitrabai Udhavrao Tanpure
Age : major, occu.: agri.,
R/o Padali Parbhnaï,
Tal. Partur, District Jalna.
2. The Special Land Acquisition
Officer (E & D), Jalna.
3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.458 OF 2015

WITH CA NO. 10207 OF 2014

WITH CA NO. 15073 OF 2018

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Asaram Jeenaji Bobade
Age : major, occu.: agri.,
R/o Padali Parbhnaï,
Tal. Partur, District Jalna.
2. Laxman Jeenaji Bobde
Age : major, occu.: agri.,
R/o as above.
3. The Special Land Acquisition
Officer (E & D), Jalna.

4. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.460 OF 2015

WITH CA NO. 12223 OF 2014

WITH CA NO. 1920 of 2019

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Sudam Anna Kakade
Age : major, occu.: agri.,
R/o Padali Parbhnaei,
Tal. Partur, District Jalna.
2. The Special Land Acquisition
Officer (E & D), Jalna.
3. The State of Maharashtra
Through Collector, Jalna.

Respondents

WITH

FIRST APPEAL NO.2 OF 2016

Executive Engineer,
Lower Dudhna Project, Selu,
District Parbhani.

Appellant

Versus

1. Sarjerao Sheshrao Mote
Age : major, occu.: agri.,
R/o Padali Parbhnai,
Tal. Partur, District Jalna.
2. The Special Land Acquisition
Officer (E & D), Jalna.
3. The State of Maharashtra
Through Collector, Jalna.

Respondents

Mr. S.G. Sangle, Advocate for the appellant.

Ms. Kavita Shedge, Advocate holding for
Mr. P.R. Katneshwarkar, Advocate for original claimants.

Mrs. Asha Raakh, Advocate for original claimants.

Mr. B.V. Virdhe, A.G.P. for respondents Nos.2 and 3.

CORAM : SUNIL K. KOTWAL, J.

Dated : 6 June 2019

JUDGMENT.

. All these appeals, filed by Acquiring Body challenging the judgment and award passed by the Reference Court in Land Acquisition Reference Nos. 752 of 2010, 440 of 2010 754 of 2010, 22 of 2010, 192 of 2010, 190 of 2010, 1085 of 2010, 761 of 2010 193 of 2010, 1013 of 2010, 1230 of 2010, 1018 of 2010 and 1173 of 2010 are disposed of by this common judgment.

2. Heard Mr. S.G. Sangle, learned Counsel for the appellant and Smt. Asha Rakh, learned Counsel for original claimants.

3. The challenge in these appeals, at the stage of arguments, is restricted only regarding interest awarded under Section 34 and under Section 28 of the Land Acquisition Act (hereinafter referred to as the "Act"), from the date of taking possession, though possession was taken prior to the publication of notification under Section 4 (1) of the Act.

4. Notification under Section 4 (1) of the Act was published on 09.08.2002 and possession of the acquired land was taken by the Acquiring Body prior to the publication of notification.

5. In view of the above situation, after considering the law settled by Full Bench of this Court in the case of **"State of Maharashtra Vs. Kailas Shiva Rangari"** [2016 (4) Bom.C.R. 1], the interest under Section 34 of the Act can only be granted from the date of declaration of award under Section 11 of the Act, if the possession of acquired land is obtained prior to the publication of notification under Section 4 (1) of the Act.

6. This Court has already taken a view that if the possession is obtained prior to the publication of notification under Section 4 (1) of the Act, even the interest under Section 28 of the Act is payable from the date of passing of award and not from the date of taking possession of the acquired land. In view of this legal position, all these appeals deserve to be partly allowed to the above-said extent. Hence, the following order is passed.

7. The appeals are partly allowed.

8. The judgment and award impugned in the present appeals, so far as they relate to grant of interest under Sections 28 and 34 of the Act from the date of taking possession, are set aside.

9. The interest under Section 34 as well as under Section 28 of the Act shall be payable from the date of passing of award i.e. from 08.05.2005.

10. The award be modified accordingly.

11. The claimants are permitted to withdraw the compensation amount deposited by Acquiring Body in this Court, only in accordance with the modified award.

12. Parties to bear their respective costs of the appeals.

13. Pending Civil Applications are disposed of accordingly.

(SUNIL K. KOTWAL)
JUDGE

vdd/