

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**1029 FIRST APPEAL NO.692 OF 2019
WITH CA/13461/2016 IN FA/692/2019**

THE EXECUTIVE ENGINEER, LOWER DUDHANA PROJECT, DIVISION
SELU, THR. JALNA IRRIGATION DIVISION, JALNA
VERSUS
GAYABAI DIGAMBAR PURI (DIED) THR. LRS RANGNATH AND ORS

...
Advocate for Appellant : Shri Ruturaj C. Patil
Advocate for Respondent No.1 : Shri P. R. Katneshwarkar
...

CORAM : P.R.BORA, J.

DATE: 28th February, 2019

PER COURT:-

1 With the consent of the learned Counsel appearing for the parties heard finally at the admission stage.

2 The only objection raised by the Acquiring Body against the impugned Judgment and award pertains to interest awarded by the Reference Court under Sections 28 and 34 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), from the date of possession of the land. Shri R.C.Patil, learned Counsel for the appellant Acquiring Body relying on the Judgment of Full Bench of this Court in the case of ***State of Maharashtra Vs. Kailash Shiva Rangari [2016 (4) ALL MR 513]*** submitted that such an interest can be awarded only from the date of passing of

the award under Section 11 of the Act. The learned Counsel also relied on the Judgment of single Judge of this Court (Coram: S.B.Shukre,J.) in the case of ***State and Others Vs. Ramesh Tukaram Meshram and Others [2018(3) Mh.L.J. 616]*** and subsequent judgment of another Single Judge of this court (Coram : Sunil P. Deshmukh, J.) delivered in First Appeal No.483 of 2018 with connected appeals, and prayed for necessary modification in the impugned Judgment and award.

3 Shri P.R.Katneshwarkar, learned Counsel appearing for respondent No.1 conceded the legal position as has been canvassed by Shri Patil, learned Counsel for the Acquiring Body and prayed for passing appropriate order.

4 In view of submissions made by learned Counsel for the parties, the following order is passed:-

ORDER

I) The impugned Judgment and award dated 22.08.2011 passed in LAR No.1 of 2011 [Old No.13 of 2006] so far as it relates to grant of interest under Sections 28 and 34 of the Act stands set aside. Instead, such an interest is made payable from the date of passing of the award under Section 11 of the Act, i.e. 26.05.2003.

- II) The award be modified accordingly.
- III) The appeal thus stands partly allowed in the aforesaid terms.
- IV) The Acquiring Body shall pay the amount of compensation to the claimants as per the modified award as expeditiously as possible and preferably within a period of six months from the date of this order.
- V) Pending civil application stands disposed of.

(P.R.BORA)
JUDGE

SPT