

**IN THE NATIONAL LOK ADALAT PRESIDED OVER BY
HON'BLE SHRI JUSTICE R.G. AVACHAT
HELD ON 14th SEPTEMBER, 2019**

AT HIGH COURT LEGAL SERVICES SUB-COMMITTEE AT AURANGABAD

**944 FIRST APPEAL NO.1919 OF 2019
WITH
CA/13840/2018 IN FA/1919/2019**

**EX. ENGINEER, IRRIGATION PROJECT MAJBUTIKARN DIVISION,
OMERGA (NOW UNDER THE M.K.V.D.C)
VERSUS
KALLAPPA SHANKAR MENGSHETTY,
THROUGH LRS NAGNATH AND ORS**

**WITH
945 FIRST APPEAL (STAMP) NO.32749 OF 2013**

**EXECUTIVE ENGINEER, IRRIGATION DEPARTMENT STRENGTHENING
DIVISION, OMERGA
VERSUS
SHRIDHAR AMBADAS JADHAV AND ANOTHER**

**WITH
946 FIRST APPEAL (STAMP) NO.32834 OF 2013**

**EXECUTIVE ENGINEER,
IRRIGATION DEPARTMENT STRENGTHENING DIVISION, OMERGA
VERSUS
BHANUDAS AMBADAS JADHAV AND ANOTHER**

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**Mr.A.S.Shelke, Advocate for appellant
Mr.L.C.Patil, Advocate for claimants**

ORDER

**Mr.Somshekhar Harsure, Executive Engineer,
Osmanabad Middle Project Division, Osmanabad, is present for
acquiring body.**

2. All these appeals are filed by the Maharashtra Krushna Valley Development Corporation. The Corporation is represented by Mr.A.S.Shelke, learned Counsel.

3. The claimants are represented by Mr.L.C.Patil and Mr.V.B.Deshmukh learned Counsel.

4. The learned Counsel for the acquiring body jointly submitted that in view of the policy decision taken by the State Government vide Government Resolution No. संकीर्ण-२०१४/pra.kra.४१/भाम-१/अ-४ दि. ३ नोव्हेंबर, २०१६ with Government Corrigendum dated 23rd February, 2017 and 13th August, 2018 to the said Government Resolution, the Corporation has decided to settle the present appeals by accepting the market rates as are determined by the Reference Court since the same are within the outer limits, as prescribed in the aforesaid Government Resolution.

5. The learned Counsel further submitted that in all these matters, the Reference Court has awarded interest under Section 34 of the Act on the amount of compensation in some cases from the date of possession and, in some cases from the date of issuance of the Notification under Section 4 of the Act. The learned Counsel submitted that in view of the Full Bench Judgment of this Court in the case of **The State of Maharashtra Vs. Kailash Shiva Rangari, 2016(4)**

BCR 1, such an interest can only be awarded from the date of award under Section 11 of the Act. The learned Counsel submitted that to the said extent the impugned awards need to be modified.

6. The learned Counsel appearing for the claimants fairly submitted that they do not have any objection to modify the award by making the interest under Section 34 of the Act payable from the date of award under Section 11 of the Act instead of from the date of possession or from the date of Section 4 notification. The learned Counsel further submitted that if the acquiring body deposits the entire amount of compensation as per the modified award, within the period of six months, the claimants are ready to give up the interest of the said period of six months on the amount of compensation.

7. In view of the above submissions made, the following order is passed :-

ORDER

a) The awards impugned in the present appeals stand modified only to the extent of interest under Section 34 of the Act granted from the date of possession or from the date of Section-4

notification and it is directed that such an interest shall be made payable from the date of award passed under Section 11 of the Act.

- b) The acquiring body shall deposit the amount of compensation as per the modified award, within six months from the date of this order, if already not deposited.
- c) No interest shall be payable of the period of six months, if amount of compensation is deposited by the acquiring body within the period of six months, failing which, allowance so given to the acquiring body shall stand automatically withdrawn, unless with consent of the claimants the time to deposit the amount is got extended by the acquiring body from the Court.
- d) In the matters wherein, amount of compensation is deposited by the acquiring body in pursuance of the award passed by the Reference Court with interest under Section 34 of the Act from the date of possession, the excess amount of interest shall be refunded to the acquiring body.
- e) The amount deposited in this Court be transmitted

to the Reference Court so as to facilitate its withdrawal by the respective claimants.

- f) It would be open for the claimants to withdraw the amount by making application to the Reference Court.
 - g) The acquiring body shall be entitled for the refund of Court fees in accordance with law.
8. Delay, if any, occasioned in filing the appeals stands condoned.
9. Other Civil Applications, if any, stand disposed of.

(K.B.CHOUDHARY)
Advocate
Member

(B.G. DASGAONKAR)
D.J.(Retd.)
Member

(R.G. AVACHAT, J.)
Head of the Panel

Date: 14.09.2019
Place: Aurangabad.

kbp