

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

910 FIRST APPEAL NO.363 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Vishwanath Mahadappa Gudale
Age : Major, Occu.: Agriculturist,
2. Nandku Vishwanath Gudale
Age : Major, Occu.: Agriculturist,
3. Vishwanath Mahadappa Gudale
Age : Major, Occu.: Agriculturist,
All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
4. The State of Maharashtra,
Through the Collector, Latur.
5. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

WITH

FIRST APPEAL NO.364 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

Sangram Deorao Tondare (Died_
Through L.Rs.

1. Baburao Sangram Tondare
Age : Major, Occu.: Agriculturist,

2. Gajanan Baburao Tondare
Age : Major, Occu.: Agriculturist,
 3. Shivanand Baburao Tondare
Age : Major, Occu.: Agriculturist,
All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
 4. The State of Maharashtra,
Through the Collector, Latur.
 5. The land Acquisition Officer,
Purna Project, Latur.
- ... Respondents.

WITH

FIRST APPEAL NO.365 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Vaijanath Basvant Tondare
Age : Major, Occu.: Agriculturist,
 2. Dhondiram Sopan Musne
Age : Major, Occu.: Agriculturist,

Both R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
 3. The State of Maharashtra,
Through the Collector, Latur.
 4. The land Acquisition Officer,
Purna Project, Latur.
- ... Respondents.

WITH

FIRST APPEAL NO.366 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Hirabai Bhimrao Tondare
Age : Major, Occu.: Agriculturist,
2. Bhimrao Baswant Tondare
Age : Major, Occu.: Agriculturist,
3. Vimalbai Shivraj Tondare
Age : Major, Occu.: Agriculturist,
4. Mankarnabai Malikarjun Swami
Age : Major, Occu.: Agriculturist,
All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
5. The State of Maharashtra,
Through the Collector, Latur.
6. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

WITH

FIRST APPEAL NO.367 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Umakant Kashinath Tondare
Age : Major, Occu.: Agriculturist,
2. Rajkumar Kashinath Tondare
Age : Major, Occu.: Agriculturist,

3. Subhash Kashinath Tondare
Age : Major, Occu.: Agriculturist,
 4. Vilas Kashinath Tondare
Age : Major, Occu.: Agriculturist,
 5. Sharnappa Kashinath Tondare
Age : Major, Occu.: Agriculturist,
All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
 6. The State of Maharashtra,
Through the Collector, Latur.
 7. The land Acquisition Officer,
Purna Project, Latur.
- ... Respondents.

WITH**FIRST APPEAL NO.368 OF 2018**

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Deenanath Sanganna Musane
Age : Major, Occu.: Agriculturist,
 2. Sandip Deenanath Musane
Age : Major, Occu.: Agriculturist,

Both R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
 3. The State of Maharashtra,
Through the Collector, Latur.
 4. The land Acquisition Officer,
Purna Project, Latur.
- ... Respondents.

WITH
FIRST APPEAL NO.370 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Ashok Bhimrao Kharajge
Age : Major, Occu.: Agriculturist,
2. Digambar Bhimrao Kharajge
Age : Major, Occu.: Agriculturist,
3. Veershetty Bhimrao Kharajge
(Died through L.Rs.)
Panchphulabai w/o Veershetty Kharajge
Age : Major, Occu.: Agriculturist,
4. Avinash Ashok Kharajge
(Under Guardianship)
Minabai w/o Ashok Kharajge
Age : Major, Occu.: Agriculturist,
5. Abhijit Ashok Kharajge
(Under Guardianship)
Minabai W/o Ashok Kharajge
Age : Major, Occu.: Agriculturist,
6. Swarup Veershetty Kharajge
Age : Major, Occu.: Agriculturist.
7. Shivanand Veershetty Kharajge
Age : Major, Occu.: Agriculturist
8. Devanand Veershetty Kharajge
Age : Major, Occu.: Agriculturist
9. Vishwas Digambar Kharajge
Age : Major, Occu.: Agriculturist
10. Rahul Swarup Kharajge
Age : Major, Occu.: Agriculturist

11. Pravin Shivanand Kharajge
(Under Guardianship)
Mangal w/o Shivanand Kharajge
12. Shivaji Trimbak Sontakke
Age : Major, Occu.: Agriculturist

All R/o. Chandegaon, Tq. Udgir,
Dist. Latur.
13. The State of Maharashtra,
Through the Collector, Latur.
14. The land Acquisition Officer,
Purna Project, Latur. ... Respondents.

WITH**FIRST APPEAL NO.371 OF 2018**

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Rajkumar Baliram Mhetre
Age : Major, Occu.: Agriculturist,
2. Vijaykumar Baliram Mhetre
Age : Major, Occu.: Agriculturist,
3. Sandip Baliram Mhetre
Age : Major, Occu.: Agriculturist,
4. Sanjiv Baliram Mhetre
Age : Major, Occu.: Agriculturist,
5. Dnyanoba Mokind Mhetre
Age : Major, Occu.: Agriculturist,
6. Dhondiram Prabhu Mhetre
Age : Major, Occu.: Agriculturist

All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.

7. The State of Maharashtra,
Through the Collector, Latur.
8. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

WITH
FIRST APPEAL NO.372 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Harichandra Hanmantrao Tondare
Age : Major, Occu.: Agriculturist,
2. Ramesh Harichandra Tondare
Age : Major, Occu.: Agriculturist,
3. Vijaykumar Harichandra Tondare
Age : Major, Occu.: Agriculturist,
4. Rajkumar Harichandra Tondare
Age : Major, Occu.: Agriculturist,

All R/o. Chandegaon, Tq. Udgir,
Dist. Latur.

5. The State of Maharashtra,
Through the Collector, Latur.
6. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

WITH

FIRST APPEAL NO.373 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

1. Youvraj Sangram Tondare
Age : Major, Occu.: Agriculturist,
2. Kalappa Sangram Tondare
Age : Major, Occu.: Agriculturist,
3. Sangram Baswant Tondare
Died through L.Rs.
 - i) Niamma w/o Sangram Tondare
Age : Major, Occu.: Agriculturist,
 - ii) Sulochanabai w/o Ram Sontakke
Age : Major, Occu.: Agriculturist,

All R/o. - Chandegaon, Tq. Udgir,
Dist. Latur.
4. The State of Maharashtra,
Through the Collector, Latur.
5. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

WITH

FIRST APPEAL NO.374 OF 2018

The Executive Engineer,
Minor Irrigation Division Latur.
Through Godavari Marathwada
Irrigation Development Corporation,
Aurangabad

... Appellant
(Orig. Respondent No.3)

Versus

Annarao Sangram Kalgapure
Died through L.Rs.
Age : Major, Occu.: Agriculturist,

1. Kalyanrao Annarao Kalgapure
Age : Major, Occu.: Agriculturist,
2. Yeshwantrao Annarao Kalgapure
Age : Major, Occu.: Agriculturist,
3. Gunwantrao Annarao Kalgapure
Age : Major, Occu.: Agriculturist,
4. Apparao Annarao Kalgapure
Age : Major, Occu.: Agriculturist

All R/o. Chandegaon, Tq. Udgir,
Dist. Latur.

5. The State of Maharashtra,
Through the Collector, Latur.
6. The land Acquisition Officer,
Purna Project, Latur.

... Respondents.

....

Mr. S.G. Bhalerao, Advocate for Appellants.

Mr. S.S. Halkude, Advocate for Respondents-Original Claimants.

Mr. A.M. Phule, AGP for Respondent-State.

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CORAM : P.R. BORA, J.

DATED : 10th JANUARY, 2019

ORAL JUDGMENT:-

1. Since the present appeals are arising out of a common judgment and award passed by the court of Joint Civil Judge, Senior Division, Udgir in LAR No.100/2011 with connected LARs., I have heard common arguments in all these appeals and I deem it appropriate to decide all these appeals by a common reasoning.
2. The common judgment and award is challenged by the acquiring body restricted to the interest as has been awarded by

the Reference Court under Section 28 and 34 of the Act from the date of taking possession of the acquired lands.

3. Shri S.G. Bhaleralo, learned counsel appearing for the appellant, placing his reliance on the Full Bench Judgment of this Court in the Case of ***The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) ALL MR 513***, submitted that the interest under Section 28 as well as Section 34 of the Act could have been granted by the Reference Court from the date of passing the award under Section 11 of the Act and not from any prior date whereas the same has been granted by it from the date of taking possession of the acquired lands. The learned counsel, therefore, prayed for modification of the common judgment and award to the aforesaid extent.

4. Learned counsel appearing for the claimants in all these matters has conceded the legal position as has been canvassed on behalf of the appellant, and in the circumstances, prayed for passing appropriate order.

5. Learned AGP Shri Phule supported the arguments advanced by Shri Bhalerao, the learned counsel appearing for the appellant.

6. I have carefully perused the common judgment and award, which has been impugned in the present appeals. The Reference Court has awarded the interest under Section 28 of the Act from the date of taking possession of the lands by the acquiring body. The award under Section 11 of the Act was admittedly passed on

18.10.2010.

7. The Full Bench of this Court in the Case of The State of ***Maharashtra Vs. Kailash Shiva Rangari*** (cited supra) has ruled that, the interest under Section 34 of the Act can only be made payable from the date of Award under Section 11 of the Act and not from any prior date. The learned Single Judge of this court (Coram: S.B.Shukre,J.) while deciding the First Appeal No.383/2004, vide the judgment delivered on 23rd November, 2017, has held that the interpretation accorded to Section 34 of the Act by the Full Bench of this Court would also have its equal application while understanding the import of Section 28 of the Act, and has accordingly set aside the Award impugned in the said appeal wherein the Reference Court has awarded the interest from the date of taking over possession of the land and instead made it applicable from the date of declaration of the Award under Section 11 of the Act. In the subsequent judgment, another learned Single Judge of this court (Coram : Sunil P.Deshmukh, J.) in First Appeal No.483/2018 with connected appeals, has affirmed the said interpretation and has held that the interest under Sections 28 and 34 of the Land Acquisition Act payable to the claimants would be from the date of award and not from the date of possession.

8. In view of the law laid down as above, the common judgment and award so far as it relates to grant of interest under Section 28 of the Act from the date of the possession cannot be

sustained. The challenge raised by the acquiring body to the aforesaid part of the impugned common judgment and award, therefore needs to be upheld. In the result the following order is passed:-

ORDER

[i] The common judgment and award impugned in the present appeals is quashed and set aside so far as it relates to grant of interest under Section 28 of the Act from the date of possession. Instead it is directed that the interest under Section 28 of the Act shall be made payable from the date of passing the award under Section 11 of the Act i.e. from 18.10.2010. The common judgment and award be modified to the aforesaid extent.

[ii] The other part of the Award is maintained as it is.

[iii] From out of the amount deposited by the appellant in this Court in the present appeals, the original claimants in the respective appeals are permitted to withdraw such an amount which shall be found payable to them as per the modified award with interest accrued thereon. Balance amount with interest accrued thereon be refunded to the appellant.

[iv] The appeals thus stand partly allowed in the aforesaid terms. Pending Civil Applications, if any, stands disposed of.

**(P.R. BORA)
JUDGE**