

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

FIRST APPEAL NO.2128 OF 2018

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

Versus

Tukaram Manikrao Patil (Died through L.Rs.)

1. Shashikala Anil Somwanshi
Age: Major, Occ: Agriculturist,
R/o.- Achler, Tq- Lohara,
Dist.-Osmanabad.
2. Ranjana Nanasaheb Shinde
Age: Major, Occ: Agriculturist,
R/o.- Ganesh Nagar Osmanabad.
3. The State of Maharashtra
Through Collector Osmanabad.
4. The Spl. Land Acquisition Officer,
(P.T. & M.I.) Osmanabad. ...Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for Appellant.
Mr. L.C. Patil, Advocate for Respondent Nos. 1 and 2.
Mr. P.M. Kulkarni, AGP for Respondent Nos. 3 and 4.

**WITH
FIRST APPEAL NO. 517 OF 2019**

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

Versus

1. Manik Ananta Kolge,
Age: Major, Occ: Agriculturist,
R/o.- Keshegaon, Tq. & Dist- Osmanabad.

2. The State of Maharashtra
Through Collector Osmanabad.

3. The Spl. Land Acquisition Officer,
(P.T. & M.I.) Osmanabad. ...Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for Appellant.

Mr. S.A. Wakure, Advocate for Respondent No.1.

Mr. P.M. Kulkarni, AGP for Respondent Nos. 2 and 3.

WITH

FIRST APPEAL NO. 518 OF 2019

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

Versus

1. Prabhakar Kashinath Kamathe,
Age: Major, Occ: Agriculturist,
R/o.- Dharur, Tq- & Dist- Osmanabad.

2. The State of Maharashtra
Through Collector Osmanabad.

3. The Spl. Land Acquisition Officer,
(P.T. & M.I.) Osmanabad. ...Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for Appellant.

Mr. S.A. Wakure, Advocate for Respondent No.1.

Mr. P.M. Kulkarni, AGP for Respondent Nos. 2 and 3.

WITH

FIRST APPEAL NO. 519 OF 2019

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

Versus

1. Jambuwant Bhanudas Kore,

(3)

Age: Major, Occ: Agriculturist,
R/o.- Dharur, Tq- & Dist- Osmanabad.

2. The State of Maharashtra
Through Collector Osmanabad.

3. The Spl. Land Acquisition Officer,
(P.T. & M.I.) Osmanabad. ...Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for Appellant.

Mr. S.A. Wakure, Advocate for Respondent No. 1.

Mr. P.M. Kulkarni, AGP for Respondent Nos. 2 and 3.

...

CORAM : P.R. BORA, J.

DATED : 18th FEBRUARY, 2019.

ORAL JUDGMENT:-

. Since all these appeals are arising out of the common judgment and award, common arguments are heard in all these appeals and I deem it appropriate to decide these appeals by a common reasoning.

2. The acquiring body has challenged the common judgment and award passed by the Court of Civil Judge Senior Division at Osmanabad in L.A.R. Nos. 205 of 2010, 207 of 2010, 202 of 2010 and 206 of 2010 on 25.04.2013. The said land acquisition references were filed by the respective claimants claiming the enhancement in the amount of compensation for their lands acquired for the purpose of construction of Minor Irrigation Tank at

Village Keshegaon and Dharur. The common judgment and award is challenged by the acquiring body only to the extent the Reference Court has awarded the interest under Section 34 of the Act from the date of issuance of Section 4 notification. The learned counsel appearing for the respondents i.e. original claimants has fairly conceded the legal position settled by the full bench of this Court in the case of **"The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) All M.R. 513"** and has submitted for passing appropriate orders. The learned counsel further submitted that though the judgment has been delivered in the reference application way back in the year 2013, till date the acquiring body has not deposited any amount towards the enhancement as has been granted. The learned counsel in the circumstances prayed that some directions may be given to the acquiring body for deposit of the amount. The learned AGP has also submitted for passing appropriate orders.

3. In the common judgment and award impugned in the present appeals, the Reference Court has awarded the interest under Section 34 of the Act from the date of issuance of Section 4 notification

i.e. 25.07.1995. The award under Section 11 of the Act was admittedly passed on 29.05.1999. In view of the law laid down by the full bench of this Court in the case of "***The State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (4) All M.R. 513***", the interest under Section 34 of the Act can only be awarded from the date of passing of the award and not from any prior date. In view of the law laid down by the full bench, the common judgment and award impugned in the present appeals so far as it relates to grant of interest under Section 34 of the Act from the date of Section 4 notification cannot be sustained and deserves to be set aside. In so far as the other part of the award is concerned, there is no challenge and as such the same will remain as it is. For the reasons stated above, the following order is passed:

ORDER

i) The common judgment and award so far as it relates to grant of interest under Section 34 from the date 25.07.1995 i.e. issuance of Section 4 notification is quashed and set aside; instead such an interest is made payable from the date of passing of the award i.e. 29.05.1999.

(6)

ii) Modified award be prepared accordingly.

iii) The appeals stand partly allowed in the aforesaid terms.

iv) It is hoped and expected that the acquiring body will deposit the amount of compensation as per the modified award preferably within the period of six months.

(P.R. BORA, J.)

Mujaheed//