

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

1 FIRST APPEAL NO.2203 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

- 1 Vishwanath Ramkrishna Gonde,
Age – major, Occ. Agri.,
 - 2 Prabhakar Ashruba Gonde,
Age – major, Occ. Agri.,
 - 3 Godavaribai w/o Bhagwanrao Gonde,
Age – major, Occ. Agri.,
- All are r/o Gangamasla, Tq. Majalgaon,
Dist. Beed.

... **Respondents**

...

Mr. A.M. Phule, AGP for appellants
Mr. V.H. Solanke, Advocate for respondent No.1

...

WITH

2 FIRST APPEAL NO.2204 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

Premkumar Ghanshyam Solanke,
Age – major, Occ. Agri.,
R/o Gangamasla, Tq. Majalgaon,
Dist. Beed.

... **Respondent**

...

Mr. A.M. Phule, AGP for appellants
Mr. V.H. Solanke, Advocate for sole respondent

...

WITH

3 FIRST APPEAL NO.2205 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

Narayan Gopalrao Solanke,
Age – major, Occ. Agri.,
R/o Gangamasla, Tq. Majalgaon,
Dist. Beed.

... **Respondent**

...

Mr. A.M. Phule, AGP for appellants

Mr. A.T. Ghute and Mr. P.S. Koshti, Advocates for sole respondent

...

WITH

4 FIRST APPEAL NO.2206 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

Indumatibai w/o Ganeshrao Solanke,
Age – major, Occ. Agri.,
R/o Gangamasla, Tq. Majalgaon,
Dist. Beed.

... **Respondent**

...

Mr. A.M. Phule, AGP for appellants

Mr. A.T. Ghute and Mr. P.S. Koshti, Advocates for sole respondent

...

WITH**5 FIRST APPEAL NO.2207 OF 2008**

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**... **Versus** ...

Rajubai w/o Babu Khetre,
Age – major, Occ. Agri.,
R/o Gangamasla, Tq. Majalgaon,
Through G.P.O. Dipak Chandragir Giri,
Age – major, Occ. Agri.,
R/o Gangamasla, Tq. Majalgaon,
Dist. Beed.

... **Respondent**

...

Mr. A.M. Phule, AGP for appellants
Mr. V.H. Solanke, Advocate for sole respondent

...

WITH**6 FIRST APPEAL NO.2208 OF 2008**

- 1 The State of Maharashtra

Through Collector, Beed.

- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

- 1 Ram Narsing Kumbhar,
Age 32 yrs., Occ. Agri.,
R/o Mothewadi, Tq. Majalgaon,
Dist. Beed.
- 2 Nanda Ramchandra Kumbhar,
Age 35 yrs., Occ. Household,
R/o Dharur, Dist. Beed.
- 3 Shantabai Dnyanoba Kumbhar,
Age 55 yrs., Occ. Household,
R/o Budhod, Tq. Ausa, Dist. Latur.
- 4 Kushabai Dnyanoba Kumbhar,
Age 50 yrs., Occ. Household,
R/o Gharni, Tq. Ahmedpur,
Dist. Latur.
- 5 Chandrabhagabai Narayan Kumbhar,
Age 48 yrs., Occ. Household,
R/o as above.
- 6 Rukhminbai Bhausahab Kumbhar,
Age 45 yrs., Occ. Household,
R/o Borgaon, Tq. & Dist. Latur.
- 7 Mukta Bhima Kumbhar,
Age 30 yrs., Occ. Household,
R/o Karsur, Tq. Pathri,
Dist. Parbhani.

- 8 Sarubai Sopan Kumbhar,
Age 42 yrs., Occ. Household,
R/o Gharni, Tq. Ahmedpur,
Dist. Latur.
- 9 Gangabai Nagappa Kumbhar,
Age 70 yrs., Occ. Household,
R/o Mothewadi, Tq. Majalgaon,
Dist. Beed.

Respondent Nos.1 to 9 through General
Power of Attorney Umakant Wasantrao
Kumbhar, Age 33 yrs., Occ. Agri.,
R/o Mothewadi, Tq. Majalgaon,
Dist. Beed.

... **Respondents**

...

Mr. A.M. Phule, AGP for appellants

Mr. V.H. Solanke, Advocate for respondent Nos.1 to 9

...

WITH

7 FIRST APPEAL NO.2209 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

Shrikrishna Abaji Gonde,
 Age – major, Occ. Agri.,
 R/o Gangamasla, Tq. Majalgaon,
 Dist. Beed.

... **Respondent**

...

Mr. A.M. Phule, AGP for appellants
 Mr. V.H. Solanke, Advocate for sole respondent

...

WITH

8 FIRST APPEAL NO.2210 OF 2008

- 1 The State of Maharashtra
Through Collector, Beed.
- 2 The Executive Engineer,
Majalgaon Project Division,
Kesapuri Wasahat, Tq. Majalgaon,
Dist. Beed.

... **Appellants**

... **Versus** ...

- 1 Prakash Natha Khetre,
Age – major, Occ. Agri.,
- 2 Rama Natha Khetre,
Age – major, Occ. Agri.,

Both are r/o Gangamasla, Tq. Majalgaon,
 Dist. Beed.

... **Respondents**

...

Mr. A.M. Phule, AGP for appellants

Mr. V.H. Solanke, Advocate for respondent No.1

Respondent No.2 - served

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 31st JULY, 2020

COMMON JUDGMENT :

1 All these appeals are arising out of same project, wherein the reference Court had decided the references on the same day and by common Judgment. The respondents herein had filed Land Acquisition Reference Nos.155/2000, 154/2000, 153/2000, 268/2000, 267/2000, 269/2000, 152/2000 and 150/2000 before 3rd Adhoc Additional District Judge, Beed. They came to be decided on 09.03.2004.

2 Agricultural lands of original claimants from village Gangamasla, Tq. Majalgaon, Dist Beed were acquired for the purpose of "Canal K.MTR Nos.17, 18 and 19 of Gangamasla". The following table shows the compensation awarded by SLAO and also by Court.

Sr. No.	First Appeal No.	L.A.R. No.	Gat No.	Acquired land	Compensation awarded by SLAO	Net enhanced compensation by Court
01	2203/2008	155/2000	/376	00H : 53R	Rs.12,455/-	Rs.21,995/-
02	2204/2008	154/2000	199/425	00H : 51R	Rs.12,495/-	Rs.20,655/-
03	2205/2008	153/2000	156/383	00H : 54R	Rs.12,960/-	Rs.22,140/-
04	2206/2008	268/2000	/377	01H : 02R	Rs.24,480/-	Rs.41,820/-
05	2207/2008	267/2000	158/386	00H : 43R	Rs.10,320/-	Rs.17,630/-
06	2208/2008	269/2000	/384	01H : 24R	Rs.29,140/-	Rs.51,460/-
07	2209/2008	152/2000	155/401	00H : 13R	Rs.3,120/-	Rs.5,330/-
08	2210/2008	150/2000	199/425	00H : 67R	Rs.16,415/-	Rs.27,135/-

Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred as “the said Act”) came to be issued in the month of January, 1996 and the Special Land Acquisition Officer (for short, “SLAO”) had declared the Award under Section 11 of the said Act on 01.09.1998. The possession of the land has been taken by the private negotiations. The rate awarded by Special LAO was Rs.23,500/- per hectare i.e. Rs.235/- per R, Rs.24,000/- per hectare i.e. Rs.240/- per R and Rs.24,500/- per hectare i.e. Rs.245/- per R for acquired land. By the said references all the claimants contended that the amount of compensation granted by Special LAO was too meagre and not as per the market rate. They claimed Rs.1,00,000/- per hectare i.e. Rs.1,000/- per R.

3 The Government protested the claim by filing written statement.

It was contended that the determination of the compensation by SLAO was as per market value and SLAO has considered all the relevant factors, which are required to be considered while granting compensation. It was also stated, that the claimants have received the amount of compensation without any protest, and therefore, the claim is barred. It was also stated, that the compensation that has been awarded by SLAO is proper, adequate and legal.

4 Taking into consideration the rival contentions, issues were framed, parties have led the evidence, especially the claimants have led oral as well as documentary evidence. They have produced two sale instances dated 24.05.1996 and 05.05.1995. The reference Court did not consider the sale instance dated 24.05.1996 at Exh.17 being sale instance after notification. The another sale instance produced by claimants at Exh.19 is between Mahadeo Balasaheb Borul and Ashruba Rambhau Solanke. It was in respect of land Gat No.124 admeasuring 1 hectare from village Gangamasla. The said land was sold for Rs.80,000/- i.e. Rs.800/- per R.

5 After considering the evidence and hearing both sides the learned reference Court has enhanced the compensation to Rs.65,000/- per hectare i.e. Rs.650/- per R for acquired land. Thus, the claimants in all references have been awarded compensation of Rs.65,000/- per hectare. All these eight Awards by the reference Court are under challenge by the

Government in these appeals.

6 Heard learned Advocate Mr. A.M. Phule for the appellant-State in all matters and Mr. V.H. Solanke and Mr. A.T. Ghute as well as Mr. P.S. Koshti in respective matters. Perused the record and proceedings.

7 It has been vehemently submitted on behalf of the State, that the enhancement by the reference Court is more than the parameters. Further, the interest has been awarded from the date of possession, which is against the Full Bench decision of this Court in **State of Maharashtra vs. Kailas Shiva Rangari, 2016 (4) ALL M.R. 513 (FB)**, it should be from the date of the Award. He, therefore, prayed for modification of the Award.

8 At the outset, it is to be noted that there is no counter documentary evidence adduced by the State. When the claimants had produced documentary evidence as well as they examined one witness by name Dattatraya Namdeo Yadav, who was the attesting witness to the sale deed Exh.19, there ought to have been an attempt by Government to lead evidence. It has come on record that the distance between the acquired land and the land under sale instance is approximately half kilometer and the quality of both the lands is similar. The said sale instance is also in respect of same village and in the year 1995 the rate was Rs.650/- per R. Definitely, the

rate, that has been, awarded by Special LAO was too meagre. Therefore, taking into consideration the distance between two lands, the purpose for acquisition and the fact that there was no counter evidence, the rate that has been awarded as per the decision of this Court in **State of Maharashtra vs. Pralhad Bajrang Nagare, 1996(1) BCJ 247**, the appeal filed by the State in challenging the rate should therefore fail. However, as regards the interest is concerned though the rate of interest is proper, yet the starting point is not as per the Full Bench decision of this Court. The interest has been awarded from the date of possession, when in fact, it should be from the date of the Award. It should be for the first year from the date of Award and thereafter it should be @ 15% per annum till realization of the entire amount, in view of Section 28 of the said Act. To that extent only the modification is required.

9 As regards the rate awarded by the reference Court is concerned, one more fact is required to be considered, that some parameters have been laid down in Government Resolution dated 03.11.2016 along with subsequent corrigendum dated 25.02.2017 and 13.08.2018. The Government has taken a decision, that if the amount awarded by the reference Court is within four times than awarded by Special LAO, then the State will not file appeal. Here, the rate, that has been, awarded by the reference Court is within four times and a well reasoned order as to why that

enhancement is made, taking into consideration the sale instance dated 05.05.1995, that much rise is appreciable.

10 For the above said reasons, following order is passed.

ORDER

1 Appeals are hereby partly allowed.

2 The prayer to set aside the Judgment and Award passed in L.A.R. No.155/2000, 154/2000, 153/2000, 268/2000, 267/2000, 269/2000, 152/2000 and 150/2000 is hereby partly allowed.

3 The prayer to modify the rate of amount of compensation granted by reference Court is hereby rejected. However, in para No.3 of the operative part of the Award, the date of possession i.e. "01.04.1989" stands deleted and replaced by the date of Award i.e. "01.09.1998".

4 It is clarified that rest of the Award remains as it is.

5 Award be prepared accordingly.

(Smt. Vibha Kankanwadi, J.)