

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

**FIRST APPEAL NO.739 OF 2008**

The State of Maharashtra  
Through Special Land  
Acquisition Officer, Jalgaon

... Appellant

Versus

Fakira Goba Mali

... Respondent

**WITH  
FIRST APPEAL NO.740 OF 2008**

The State of Maharashtra  
Through Special Land  
Acquisition Officer, Jalgaon

... Appellant

Versus

Shamrao Kashiram Spl. P. A.  
Babubai Shamrao Mali,  
Age: 50, Occu.: Agri.  
R/o Shindi Peadgaon,  
Tal. Bhadgaon, Dist. Jalgaon

... Respondent

**WITH  
FIRST APPEAL NO.741 OF 2008**

The State of Maharashtra  
Through Special Land  
Acquisition Officer, Jalgaon

... Appellant

Versus

Ambu Rajaram Patil  
Age: 50 years, Occu.: Agri.,  
R/o. Shindi, Tal. Bhadgaon,  
Dist. Jalgaon

... Respondent

**WITH  
FIRST APPEAL NO.742 OF 2008**

The State of Maharashtra  
Through Special Land  
Acquisition Officer, Jalgaon

... Appellant

Versus

Ambu Pandu Mali (Deceased)  
through LR's

1. Rukhmabai Ambu Mali  
Age: 52
2. Kamalbai Jagannath Mahajan  
Age: 42
3. Kausubai Trambak Mahajan  
Age: 40
4. Sushilabai Gorakhnath More  
Age: 35

All R/o. Shindi Tal. Bhadgaon,  
Dist. Nanded.

... Respondents

.....  
Mr. B. V. Virdhe, AGP for appellants-State.  
Mr. S. B. Bhapkar for respondents.

.....  
**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 31-07-2020**

**ORAL JUDGMENT :**

. All the appeals are arising out of the land references in respect of lands which were acquired for the project by name Percolation Tank of village Shindi Pedgaon, Tq. Bhadgaon, Dist. Jalgaon. All the references under Section 18 of the Land Acquisition Act were disposed of by common judgment delivered by

learned Civil Judge Senior Division, Jalgaon on 08-02-2000 and therefore, all these appeals are disposed of by this common judgment.

2. The agricultural lands belonging to the claimants i.e. respondents herein situated at village Shindi Pedgaon, Tq. Bhadgaon, Dist. Jalgaon were acquired for the above said project. Notification under Section 4 of the Land Acquisition Act came to be published on 27-08-1987 and date of the award under Section 11 of the Act was passed by the Special Land Acquisition Officer on 09-11-1990. The rate awarded by Special Land Acquisition Officer was at the rate of Rs.10,000/- per Hectare. The claimants felt aggrieved with the said rate and therefore, filed the above said references i.e. L.A.R. Nos.471 of 1998, 472 of 1998, 473 of 1998 and 474 of 1998 for enhancement.

3. Government objected all the references by filing written statement. It was contended that Special Land Acquisition Officer has determined the market value properly and legally as per the market rate. The claimants have received the amount of compensation without any protest and therefore, the reference is barred.

4. Evidence was led by the claimants. No evidence was adduced on behalf of the Government. After taking into consideration the evidence, the learned reference Court enhanced the amount at the rate of Rs.60,000/- per

Hectare. This judgment and award passed by the reference Court is under challenge in these respective appeals.

5. Heard learned AGP Mr. B. V. Virdhe for appellants-State and learned Advocate Mr. S. V. Bhapkar for the respondents. In order to cut short it can be said that both of them have argued in support of their respective contentions.

6. Perusal of the impugned judgment of the reference Court would show that the main evidence, that was weighed, was sale instance (Exhibit-17). It was in respect of land Gut No.155/2 from the same village i.e. Shindi and it was for area of 40 R. It was executed on 05-03-1987 and the consideration was Rs.25,000/-. Thus, it is to be considered that the rate, taking into consideration the said sale instance, would be Rs.62,500/- per Hectare. The sale instance is of very recent past to the notification under Section 4 of the Land Acquisition Act. Therefore, the reference Court has adopted proper and correct method. It has come on record that there is only half a kilometer distance between the lands which are acquired and the land under sale instance. Therefore, taking into consideration the rate of Rs.62,500/- per Hectare in sale instance, the market rate fixed by reference Court at Rs.60,000/- per Hectare for a land which is half kilometer away that too taking into consideration five months period in between, would be correct fixation of the market value. No contrary evidence was led by the Government to show any kind of arbitrariness in fixation of rate by the

reference Court. There is no merit in the appeal on the point of rate of compensation. That prayer, therefore, deserves to be rejected.

7. The second point that has been raised on behalf of the Government is the starting point of interest under Section 28 of the Land Acquisition Act. The reference Court has granted interest at the rate of 9% per annum from the date of possession for the first year and thereafter, at the rate of 15% per annum till realisation of entire amount. This is against the ratio in ***State of Maharashtra Vs. Kailas Shiva Rangari, (2016 (3) Mh.L.J. 457)***. I agree with the submission made on behalf of the appellant. Though the impugned judgment was pronounced much prior to the Full Bench's decision, yet, when now the legal position is clear, the award to that extent deserves to be modified. Hence, the following order :-

### **ORDER**

1. Appeals are hereby partly allowed.
2. The prayer of the appellant to modify the rate of compensation is hereby rejected.
3. Paragraph No.7 in operative part of the impugned judgment dated 08-02-2000 delivered by learned Civil Judge Senior Division, Jalgaon in L.A.R. Nos.471 of 1998, 472 of 1998, 143 of 1998, 474 of 1998 is hereby

modified to the extent that words "...from the date of possession..." stands deleted and replaced by words "...from the date of award..." i.e. 09-11-1990.

4. Award be drawn accordingly.

**[SMT. VIBHA KANKANWADI, J.]**

SCM