

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

**FIRST APPEAL NO. 222 OF 2020
WITH
CIVIL APPLICATION NO. 12896 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

1. Ashabai Narayan Ghadge,
Age : Major, Occup. Agriculturist,

2. Arjun Sunderao Ghadge,
Age : Major, Occup. : Agriculturist,
Both R/o: Sarfarajpur, Tq. Parli,
Dist. Beed.

... (Original Claimants)

3. The State of Maharashtra,
Through The Collector Beed.

... (Original Respondent No. 1)

.... **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body.

Mr. V. P. Latange, Advocate h/f. Mr. T. G. Gaikwad for respondent No.
1 and 2 - original claimants.

Mr. Y. G. Gujrathi, AGP for respondent No. 2.

...

**FIRST APPEAL NO. 223 OF 2020
WITH
CIVIL APPLICATION NO. 12898 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

1. Shivaji Wachistha Ghadge,
Age : Major Occup. Agriculturist,

2. Balasaheb @ Bhaskar Wachistha Ghadge,
Age : Major Occup. Agriculturist,

- Both R/o : Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimants)
3. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body.
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent Nos. 1 and 2-original claimants
Mr. Y. G. Gujrathi, AGP for respondent No. 3.

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**FIRST APPEAL NO. 224 OF 2020
WITH
CIVIL APPLICATION NO. 12913 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... Appellant
... (Original Respondent No. 2)

VERSUS

1. Rukhminbai Nivrutti Kale,
Age : Major Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimants)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body.
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent No. 1-original claimant
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

.....

**FIRST APPEAL NO. 225 OF 2020
WITH
CIVIL APPLICATION NO. 12902 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... Appellant
... (Original Respondent No. 2)

VERSUS

1. Dharmaraj Balasaheb Ghadge,
Age : Major Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent No. 1-original claimant
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

.....

**FIRST APPEAL NO. 226 OF 2020
WITH
CIVIL APPLICATION NO. 12915 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**
... (Original Respondent No. 2)

VERSUS

1. Vijaykumar Babruwan Kale
Age : Major Occup. Agriculturist,
2. Rajabhau Babruwan Kale,
Age : Major Occup. Agriculturist,
3. Babruwan Tatya Kale,
Age : Major Occup. Agriculturist,

All R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimants)
4. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent Nos. 1 to 3-original claimants
Mr. Y. G. Gujrathi, AGP for respondent No. 4.

.....

**FIRST APPEAL NO. 227 OF 2020
WITH
CIVIL APPLICATION NO. 12919 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**
... (Original Respondent No. 2)

VERSUS

1. Balasaheb Panditrao Ghadge,
Age : Major Occup. Agriculturist,
R/o : Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent No. 1 -original claimant
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

.....
**FIRST APPEAL NO. 228 OF 2020
WITH
CIVIL APPLICATION NO. 12900 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**
... (Original Respondent No. 2)

VERSUS

1. Baburao Shankarrao Munde,
Age : Major, Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr.V. P. Latange, Advocate h/f. Mr. T. G. Gaikwad, Advocate for
respondent No. 1-original claimant
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

...
FIRST APPEAL NO. 229 OF 2020
WITH
CIVIL APPLICATION NO. 12904 OF 2018

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad ... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Sambhaji Sandipan Ghadge,
 Age : Major Occup. Agriculturist,
 2. Sandipan Panditrao Ghadge,
 Age : Major Occup. Agriculturist,

 Both R/o : Sarfarajpur, Tq. Parli,
 Dist. Beed. ... (Original Claimants)
 3. The State of Maharashtra,
 Through The Collector Beed. ... (Original Respondent No. 1)
- **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent Nos. 1 and 2-original claimants
 Mr. Y. G. Gujrathi, AGP for respondent No. 3.

.....
FIRST APPEAL NO. 230 OF 2020
WITH
CIVIL APPLICATION NO. 12907 OF 2018

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad ... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Sakharam Tukaram Mundhe,
 Age : Major Occup. Agriculturist,
 R/o: Sarfarajpur, Tq. Parli,
 Dist. Beed. ... (Original Claimant)
 2. The State of Maharashtra,
 Through The Collector Beed. ... (Original Respondent No. 1)
- **Respondents**

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent No. 1 -original claimant
 Mr. Y. G. Gujrathi, AGP for respondent No. 2.

.....

**FIRST APPEAL NO. 231 OF 2020
 WITH
 CIVIL APPLICATION NO. 12909 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

1. Desai Kishanrao Ghadge,
Age : Major Occup. Agriculturist,
2. Vasant Kishanrao Ghadge,
Age : Major Occup. Agriculturist,
3. Rajabhau Kishanrao Ghadge,
Age : Major Occup. Agriculturist,

All R/o : Sarfarajpur, Tq. Parli,
 Dist. Beed.

... (Original Claimants)

4. The State of Maharashtra,
 Through The Collector Beed.

... (Original Respondent No. 1)

.... **Respondents**

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent Nos. 1 to 3 -original claimants
 Mr. Y. G. Gujrathi, AGP for respondent No. 4.

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**FIRST APPEAL NO. 232 OF 2020
 WITH
 CIVIL APPLICATION NO. 12921 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

- Nivrutti Maruti Kale (Died through L.Rs.)
1. Rukminbai Nivrutti Kale,
Age : Major Occup. Agriculturist,
 2. Haridas Nivrutti Kale,
Age : Major Occup. Agriculturist,
 3. Gopinath Nivrutti Kale,
Age : Major Occup. Agriculturist,
 4. Ramdas Nivrutti Kale,
Age : Major Occup. Agriculturist,
- All R/o : Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimants)
5. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent Nos. 1 to 4-original claimants
 Mr. Y. G. Gujrathi, AGP for respondent No. 5.

.....

**FIRST APPEAL NO. 233 OF 2020
 WITH
 CIVIL APPLICATION NO. 12923 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Vasant Kishanrao Ghadge,
Age : Major Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent No. 1-original claimant
 Mr. Y. G. Gujrathi, AGP for respondent No. 2.

....
FIRST APPEAL NO. 234 OF 2020
WITH
CIVIL APPLICATION NO. 12931 OF 2018

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Gulab Panditrao Ghadge,
 Age : Major Occup. Agriculturist,
 R/o : Sarfarajpur, Tq. Parli,
 Dist. Beed. ... (Original Claimant)

2. The State of Maharashtra,
 Through The Collector Beed. ... (Original Respondent No. 1)

.... **Respondents**

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent No. 1 - original claimant
 Mr. Y. G. Gujrathi, AGP for respondent No. 2.

...
FIRST APPEAL NO. 235 OF 2020
WITH
CIVIL APPLICATION NO. 12925 OF 2018

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Shivdas Waman Munde,
 Age : Major Occup. Agriculturist,
 R/o : Sarfarajpur, Tq. Parli,
 Dist. Beed. ... (Original Claimant)

2. The State of Maharashtra,
 Through The Collector Beed. ... (Original Respondent No. 1)

.... **Respondents**

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T. G. Gaikwad, Advocate for
 respondent No. 1 - original claimant
 Mr. Y. G. Gujrathi, AGP for respondent No. 2.
 ...

**FIRST APPEAL NO. 236 OF 2020
 WITH
 CIVIL APPLICATION NO. 12927 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Sarjerao Hira Rathod,
 Age : Major Occup. Agriculturist,

2. Jayashri Sarjerao Rathod,
 Age : Major Occup. Agriculturist,

Both R/o : Sarfarajpur, Tq. Parli,
 Dist. Beed.

... (Original Claimants)

3. The State of Maharashtra,
 Through The Collector Beed.

... (Original Respondent No. 1)

.... Respondents

...
 Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
 respondent Nos. 1 and 2-original claimants
 Mr. Y. G. Gujrathi, AGP for respondent No. 3.

**FIRST APPEAL NO. 237 OF 2020
 WITH
 CIVIL APPLICATION NO. 12933 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**
 ... (Original Respondent No. 2)

VERSUS

1. Vitthal Haribhau @ Hariba Munde
 (Died through L.Rs.)

- i) Balasaheb Vitthal Munde,
Age : Major, Occup : Agriculturist,
 - ii) Motiram Vitthal Munde,
Age : Major, Occup : Agriculturist,
 - iii) Vishnu Vitthal Munde,
Age : Major, Occup. Agriculturist,
 - iv) Rosaheb Vitthal Munde,
Age : Major, Occup : Agriculturist,
 - v) Ramesh Vitthal Munde,
Age : Major, Occup : Agriculturist,
- All R/o: Sarfarajpur, Tq. Parli,
Dist. Beed.
- 2. Bhimrao Vitthal Munde (Died
through L.Rs.)
 - i) Shakuntala Bhimrao Munde
Age : Major, Occup : Agriculturist,
R/o : Koyal, Tq- Dharur, Dist. Beed. ... (Original Claimants)
 - 3. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)
.... **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
 Mr. V. P. Latange, Advocate h/f. Mr. T. G. Gaikwad for respondents No.
 1 and 2 - original claimants
 Mr. Y. G. Gujrathi, AGP for respondent No. 3.

...

**FIRST APPEAL NO. 238 OF 2020
 WITH
 CIVIL APPLICATION NO. 12937 OF 2018**

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

- 1. Bhaguram Rangnath Munde,
Age : Major Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)

2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent No. 1-original claimant
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

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**FIRST APPEAL NO. 239 OF 2020
WITH
CIVIL APPLICATION NO. 12939 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... Appellant
... (Original Respondent No. 2)

VERSUS

1. Raosaheb Abasaheb Ghadge
(Died through L.Rs.)
- (A) Antikabai Raosaheb Ghadge,
Age : Major Occup. Agriculturist,
- (B) Rambhau Raosaheb Ghadge,
Age : Major Occup. Agriculturist,
All R/o : Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimants)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body.
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent Nos. 1-(A) and 1(B) -original claimants
Mr. Y. G. Gujrathi, AGP for respondent No. 2.

...

**FIRST APPEAL NO. 457 OF 2020
WITH
CIVIL APPLICATION NO. 12911 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... Appellant
... (Original Respondent No. 2)

VERSUS

1. Uddhav Panditrao Ghadge,
Age : Major, Occup. Agriculturist,
R/o: Sarfarajpur, Tq. Parli,
Dist. Beed. ... (Original Claimant)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)

.... Respondents

WITH
**CIVIL APPLICATION NO. 14678 OF 2018
 IN FIRST APPEAL NO. 457 OF 2020**

Uddhav Panditrao Ghadge,
 Age : 67 years, Occup. Agriculturist,
 R/o: Sarfarajpur, Tq. Parli,
 Dist. Beed.

..Applicant
 ... (Original Claimant)

VERSUS

1. The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad ... (Original Respondent No.2)
2. The State of Maharashtra,
Through The Collector Beed.
District Beed. ... (Original Respondent No. 1)

... Respondents

...

Mr.V.P. Latange, Advocate h/f. Mr. T. G. Gaikwad for applicant-original claimant
 Mr. Sudhir G. Bhalerao, Advocate for Respondent No.1-Acquiring Body.
 Mr. Y. G. Gujrathi, AGP for Respondent No. 2.

...
FIRST APPEAL NO. 501 OF 2020
 WITH
CIVIL APPLICATION NO. 12917 OF 2018

The Executive Engineer,
 Beed Irrigation Division,
 Through Godawari Marathwada Irrigation
 Development Corporation, Aurangabad

... Appellant
 ... (Original Respondent No. 2)

VERSUS

1. Tukaram Shankarrao Munde
(Died through L.Rs.)
- (1-A) Vaijnath Tukaram Mundhe
Age : Major Occup. Agriculturist,

- (1-B) Sakharam Tukaram Mundhe
Age : Major Occup. Agriculturist,
R/o : Both Koyal, Tq. Dharur,
Dist. Beed. ... (Original Claimants)
2. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)
.... **Respondents**

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent Nos. 1-(A) and 1(B) -original claimants
Mr. P.M. Kulkarni, AGP for respondent No. 2.

...
FIRST APPEAL NO. 502 OF 2020
WITH
CIVIL APPLICATION NO. 12935 OF 2018

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad ... **Appellant**
... (Original Respondent No. 2)

VERSUS

Hira Sakharam Rathod
(Died through L.Rs.)

1. Dhanubai Hira Rathod,
Died through L.Rs.
2. Bhagwan Hira Rathod
Age : Major Occup. Agriculturist,
3. Sahebrao Hira Rathod,
Age: Major, Occup. Agriculturist,
4. Sarjerao Hira Rathod,
Age: Major, Occup. Agriculturist,
All R/o: Sarfarajpur, Ta. Parli,
Dist. Beed. ... (Original Claimants)
5. The State of Maharashtra,
Through The Collector Beed. ... (Original Respondent No. 1)
.... **Respondents**

...
Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring Body
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondents No. 1 to 4 -original claimants
Mr. P.M. Kulkarni, AGP for respondent No. 5.

**FIRST APPEAL NO. 503 OF 2020
WITH
CIVIL APPLICATION NO. 12929 OF 2018**

The Executive Engineer,
Beed Irrigation Division,
Through Godawari Marathwada Irrigation
Development Corporation, Aurangabad

... **Appellant**

... (Original Respondent No. 2)

VERSUS

1. Mahadeo Bhaguji Kale
(Died through L.Rs.)

1-A. Vishnu Mahadeo Kale,
Age : Major Occup. Agriculturist,

1-B. Krushna Mahadeo Kale,
Age: Major, Occup. Agriculturist,
Both R/o: Sarfarajpur, Ta. Parli,
Dist. Beed.

... (Original Claimants)

2. The State of Maharashtra,
Through The Collector Beed.

... (Original Respondent No. 1)

.... **Respondents**

...

Mr. Sudhir G. Bhalerao, Advocate for appellant-Acquiring
Mr. V. P. Latange, Advocate h/f. Mr.T.G. Gaikwad, Advocate for
respondent Nos. 1-(A) and 1(B) -original claimants
Mr. P.M. Kulkarni, AGP for respondent No. 2.

.....

CORAM : K.K. SONAWANE, J.

DATED : 06th FEBRUARY, 2020.

(FA NO. 222 TO 239 AND 457 OF 2020)

DATED : 12th FEBRUARY, 2020.

(FA NO. 501 TO 503 OF 2020)

JUDGMENT :-

1. These appeals are directed against the impugned judgment and award rendered by the learned Reference Court, in the proceedings filed under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "Act of 1894") for enhancement of compensation of the lands under acquisition of respondents - original claimants. The appellant - Acquiring Body preferred these appeals to redress its grievances.

2. The points of controversy in all these appeals are centered on the issue of valuation of acquired lands, therefore, all these appeals are dealt with together for its adjudication on merits by this common Judgment.

3. The facts relevant to the present matters are that the lands in question located at village Sarfarajpur, Taluka Parli, District Beed were placed under acquisition for construction of percolation tank. The notification under Section 4 [1] of Act of 1894 was published on 18-12-2008. After compliance of procedural formalities, the Special Land Acquisition Officer ("SLAO") declared the Award on 04-02-2011 under Section 11 of the Act of 1894 and awarded the compensation amount to the respondents-claimants for their acquired lands at the rate of Rs.1000/-, 1050/- and 1300/- per R respectively. The SLAO also calculated the valuation of fruit bearing trees, improvement, etc. as per report of Government Valuer. But, the respondents-original claimants did not satisfy with the market value determined by the SLAO. Therefore, the respondents-claimants, taking recourse of remedy under Section 18 of the Act of 1894 filed the Reference Petitions for enhancement of compensation amount for their acquired lands. Accordingly, the matters were referred by the Collector to the competent Civil Court, Ambajogai, District Beed for assessment of just and proper amount of compensation payable to the claimants. The learned Reference Court appreciated the factual aspects of the matters and after hearing both sides proceeded to calculate the market price of the acquired land as well as valuation of fruits bearing trees, improvements etc. under acquisition. In the aftermath, the learned

Reference Court rendered the impugned Judgment and Award, which is the subject-matter of present appeals.

4. The learned counsel Shri Bhalerao for appellant-acquiring body vehemently submits that the valuation of acquired lands determined by the learned Reference Court is totally erroneous, illegal and bad-in-law. The SLAO had correctly appreciated the circumstances and calculated the compensation amount as per the provisions of law. The Reference Court awarded the exorbitant amount of compensation to each of the respondents-claimants for their acquired lands. The learned counsel submits that the learned Reference Court did not appreciate that the SLAO after due consideration of comparable sale-instances and report of Horticultural Experts etc. calculated the amount of compensation payable to the claimants. The findings of Reference Court was rests on figment of imagination and surmises. The learned Reference Court failed to appreciate the valuation report of Experts from Government Department for determination of compensation for fruit bearing trees and improvement etc. carried out in the lands under acquisition. The learned Reference Court committed error in awarding exorbitant compensation amount to respondents-claimants in these proceedings. The learned counsel for appellants raised objection that the amount of interest under Sections 28 and 34 of Act of 1894 awarded by Reference Court is erroneous, imperfect and not as per provisions laid down under law.

5. The learned counsel Shri Latange for the respondents-claimants vociferously opposed the contentions propounded on behalf of

appellant-acquiring body and submits that the assessment done by the learned Reference Court about the market price of lands and valuation of trees as well as improvements etc. in the lands, all were just, proper and reasonable one. The learned Reference Court considered the entire aspect of the matter in proper manner and thereafter proceeded to calculate the valuation of lands under acquisition. The documents of sale deeds produced on record were identified as the most comparable sale instance, proximate to the time angle and location angle. The market prices of lands and trees under acquisition were aptly determined by the Reference Court after considering the plus and minus factor for reasonable deduction in the market price of the land under sale-instance. The learned Reference Court also taken into consideration the evidence of experts for valuation of trees located in the acquired lands. According to learned counsel for claimants, there is no need to cause any interference in the impugned Award passed by learned Reference Court.

6. It is worth to mention that market value would mean the price which a willing vendor might reasonably expect to obtain from a willing purchaser. The value to be ascertained is the value to the vendor and not to the purchaser and not affected by any special need of a particular purchase. The price fetched by similarly located land with similar advantage under *bonafide* sale transaction executed at or about time of notification under section 4(1) of Act of 1894 would be usually and indeed the best evidence of market value. It is also essential to take into consideration that there cannot be any hard and rigid rule to determine the correct market value. The common sense would be the

most reliable guide for the same. It would difficult to ascertain the market value with mathematical accuracy. But some guess work for evaluation of surrounding circumstance is permissible. The law postulate that the market price of lands under acquisition should be assessed in proper and reasonable manner so that there should not be unjust enrichment of acquiring agency nor undue deprivation of land owner.

7. In the light of legal guidelines delineated in the judicial precedents in the case of ***Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poone and another and Vijay Singh Liladhar vs. Special Land Acquisition Officer and Nathumal Rajmal Baldota vs. Special Land Acquisition Officer***“ reported in ***AIR 1988 SC 1652***, it becomes manifestly clear that the proceeding of reference under Section 18 of L.A. Act is not an appeal against the Award passed by the SLAO. The Award made by a Collector cannot be said to be a decision or determination by a judicial or quasi-judicial officer, but it is an mere offer made to the person interested in the land notified for acquisition. The person interested may or may not accept the offer and accept the compensation under protest. He may also ask for reference to the court for adjudication of his claim to determine adequate compensation. Therefore, the Award being not a Judgment, whatever is stated in the Award cannot be used as evidence against the claimants in the Reference Petition filed under Section 18 of L.A. Act.

8. In the matter in hand, it transpire from the impugned judgment and award rendered by learned Reference Court that all the 22 proceedings of references filed under Section 18 of Act of 1894 by the

respondents - original claimants were clubbed together for recording the evidence in common and same were split up into four parts by learned Reference Court for its adjudication on merit in four separate and individual judgments. However, all these four common judgments and Award passed by learned Reference Court in respective Land Acquisition Reference proceedings are taken into consideration jointly and in common for decision of these allied appeals on merit simultaneously by this common Judgment.

9. In the instant reference petitions, the claimants appeared before the Reference Court and filed the affidavit by way of examination-in-chief in the claim petition for adducing evidence. According to claimants, the SLAO did not consider the value of acquired lands and trees as per prevailing market rate in the area. He failed to appreciate the sale-instances of the lands located within the vicinity of acquired lands in proper manner. It has been submitted that the lands under acquisition were rich and fertile lands, having irrigation facility. There were fruit bearing trees and structures in the land. The claimants used to take various kinds of crops like sugarcane, cotton, wheat, sunflower, etc. from acquired lands. The claimants placed reliance on the certified copy of the sale instance (Exhibit-21) produced and proved in the allied proceeding of LAR No. 58 of 2012. It was the sale deed executed on 15-04-2008 of land Gut No.111 admeasuring 0.22 R. for a consideration of Rs.1,30,000/- located within the vicinity of same village Sarfarajpur itself.

10. The notification under Section 4 of Act of 1894 in the present matter was published on 03-12-2008. The sale instance (Exhibit-21) produced on record came to be executed on 15-04-2008 i.e. well-prior

to 8/9 months of publication of notification under Section 4 of the Act of 1984. Therefore, the aforesaid sale instance of land Gut No. 111 admeasuring 0.22 R. would be the most reliable and comparable sale instance for determination of market value of the acquired lands in this case. The recitals of sale deed of land Gut No. 111 reflects that land under sale was located within the proximity of acquired lands of village Sarfarajpur. The four boundaries of the land under sale demonstrate that the portion of land of the purchaser was located abutting to the land under sale. Therefore, the inference can be drawn that the land under sale was advantageous and more convenient for the purchaser, and hence, he must have preferred to purchase the land under sale by paying higher rate of Rs.1,30,000/-. The learned Reference Court has rightly identified this sale instance as most reliable and comparable sale instance and after appreciation of all attending circumstances and after considering the plus and minus factors for reasonable deduction, arrived at the conclusion that the lands of the claimants under acquisition would fetch market price @ Rs. 3000/- per R., I find that market rate of acquired land calculated by the Reference Court would be the just, proper and reasonable market price prevailing over in the area of village Sarfarajpur during relevant period of notification under Section 4(1) of Act of 1894 in the year 2008-2009.

11. The learned Reference Court also ventured to proceed for appreciation of sale instances considered by the SLAO at the time of passing the award. But, these documents of sale deeds were not produced and proved on record. In view of law laid down by the Honourable Apex Court in the aforesaid Chimanlal's case (***referred supra***), the material relied upon by the SLAO in his award for

determination of market price of acquired lands cannot be taken into consideration unless same is produced and proved before the learned Reference Court. Unfortunately, in the matter in hand, the Government Agency did not painstakingly produce and prove the sale instance considered by the SLAO, while declaration of impugned award under Section 11 of Act of 1894. Therefore, the document of sale-instance (Exhibit-21) produced and proved before the learned Reference Court, only remained available to calculate the market value of the acquired lands. I find that the document of sale instance of land Gut No. 111 located within proximity of the acquired land would be the best evidence to calculate market value of the acquired lands in this case. The sale instance came to be executed prior to 8 to 9 months of publication of notification under Section 4 of Act of 1894, for a consideration of Rs.1,30,000/- i.e. Rs.5000/- to Rs.6000/- per R. The learned Reference Court appreciated the necessity and advantages of vendee for purchasing 00.22 R portion of the land from Gut No. 111 as it was found located adjoining to his another owned land. Therefore, learned Reference Court, after reasonable deduction in the market price to some extent, fixed the market value of the acquired land @ Rs. 3000/- per R. I do not find any error or infirmity in the exercise conducted by the learned Reference Court.

12. Now, in regard to the valuation of fruit bearing trees, it appears that the appellant- Acquiring Body has not agitated the issue seriously nor there was any arduous attempt to point out any infirmities in the exercise conducted by the learned Reference Court for assessment of valuation of fruit bearing trees etc. in these proceedings. The minute scrutiny of the impugned findings expressed by learned Reference

Court reveals that the learned Reference Court did not allow any kind of enhancement of compensation claimed by respondents – land owners for their acquired structures, improvements etc. The learned Reference Court rejected the claim for enhancement of compensation of the structures improvements etc referred in respective proceedings of LAR Nos. 45, 47, 50, 52, 55, 56, 57, 59 and 69 of 2012. The learned Reference Court did not come across with any sort of reliable and cogent evidence in all these proceedings and consequently rebuffed the relief claimed for more compensation to their acquired structure, improvements, etc. on behalf of land owners/claimants.

13. However, the learned Reference Court allowed to some extent the enhancement of compensation to the landowners/claimants for their acquired fruit bearing trees, more particularly, referred in LAR Nos. 45 to 49, 53 to 54, 57, 58, 59, 64, 65, 79 and 80 of 2012 as well as LAR No. 54 of 2013. But, the claim to award more compensation for fruit bearing trees mentioned in LAR No. 55 of 2013 and 56 of 2013 came to be rejected for want of sufficient evidence. In order to establish the claim for more compensation to the acquired fruit bearing trees, the claimants relied upon the evidence of Horticulturist Shri Vyankat Ghogare (Exhibits-17 and 24) recorded in In LAR Nos. 59 and 79 of 2012 being a common evidence for all allied reference petitions, which were clubbed together for common evidence. The horticulturist Shri Ghogare deposed that he was the Government approved valuer having required qualifications and experience. He had visited to the acquired lands of the claimants and carried out the inspection of the fruit bearing trees standing in the field. According to experts, there were Mango, Tamarind, Guava, Bor, Lime as well as

custard Apple trees found located in the acquired lands. He drawn the panchnamas and thereafter calculated the valuation of each of the fruit bearing tress of the claimants.

14. It is to be noted that while determining the valuation of the fruit bearing trees under acquisition, the learned Reference Court considered the evidence of expert/horticulturist Shri Ghogare adduced on record on behalf of claimants/land owners. The learned Reference Court observed that the SLAO in his Award under Section 11 of the Act of 1894, ascertain the valuation of fruit bearing trees by adopting the method of capitalize the net income from each of the fruit bearing trees at a number of year's purchase. The assessment carried out by the SLAO, was rests on the valuation report prepared by the horticulturist of the Government Department, on due survey/inspection of the acquired trees.

15. It is worth to mention that in the matter in hand, there were no dispute about the number of trees acquired, its natures, age etc. These factual aspects are not put into controversy on behalf of appellant-Acquiring Body. The learned Reference Court kept reliance upon most of the data collected by the Government Personnel from Horticultural Department. The learned Reference Court, on appreciation of the method of capitalizing the annual income of the acquired trees on par with method adopted by SLAO for valuation, proceeded to determine the valuation of acquired trees. There was joint measurement survey (JMS) report showing the details of acquired trees including its numbers, type, condition, production capacity etc. The learned Reference Court taken into consideration the JMS report and proceeded to calculate the valuation of acquired trees. In addition to the valuation report of

claimant's valuer Shri Ghogare, the learned Reference Court, taking recourse of mathematical formula recommended in the book authored by horticulturist Prof. Deshmukh, conducted the exercise to ascertain the reasonable and fair market value of acquired trees on the basis of available data of annual yield capacity of each trees, its cultivation costs, market rates for income, etc. The efforts taken by learned Reference Court for valuation of acquired trees on the basis of income capitalization method found conceivable and comprehensible one. The mode and method adopted by the learned Reference Court appears to be just, proper and reasonable one. There are no any legal infirmities and error in the valuation of fruit bearing trees determined by the learned Reference Court.

16. Now, turning to the substantive allegations raised on behalf of appellant- Acquiring Body pertains to grant of statutory interest under Sections 28 and 34 of the Act of 1894, I find that the learned Reference Court committed error to that extent in the impugned Judgment and Award. According to learned counsel for appellant -Acquiring Body, the grant of interest under Sections 28 and 34 of the Act of 1984, from the date of taking possession of acquired land i.e. from 01-01-2009, in all these proceedings was erroneous, illegal and not as per the provisions of law. He submits hat the interest under Sections 28 and 34 of the Act of 1894, both are essentially to be awarded from the date of award and not from the date of taking possession of acquired lands.

17. In the case of ***State of Maharashtra Versus Kailash Shiva Rangari*** reported in ***2016(4) All MR 513***, the Full Bench of this Court delineated the legal guidelines that the amount of interest under Section 34 of the Act of 1894 would have granted @ 9% p.a. for a

period of one year only from the date of award and not from the date of taking possession of acquired lands. It has been enunciated that the interest as provided under Section 34 of the Act of 1894 shall start running from the date of possession, only if the possession was taken by the Collector after exercising his powers under Section 16 or 17 of the Act of 1894. Moreover, in the case of ***State of Maharashtra Versus Ramesh Tukaram Mesharam and others*** reported in ***2018(1) All MR 645***, the learned Single Judge of this Court, Bench at Nagpur (Coram : S.B. Shukre, J.) held that the legal provisions of Sections 28 and 34 of Act of 1894 for grant of amount of interest on the enhanced compensation amount awarded under Section 18 of Act of 1894, both are in *pari materia* and identical in nature except the stages from which the amount of interest is required to be awarded.

18. In view of aforesaid judicial precedents, it becomes manifestly clear that the interest under Sections 28 and 34 of the Act of 1894 starts running from the date of award i.e. compensation payable to the claimants from the date of taking possession of acquired land under Section 16 of Act of 1894 after the award or under Section 17 of the Act of 1894. The provision of Section 28 provides that "Court may direct that the Collector shall pay interest on such excess at the rate of 9% p.a from the date on which he took possession of the land to the date of payment of such excess into court." It is an directive to the Collector to pay the interest in a given circumstances. The Section 28 of Act of 1894 no where says that the interest amount should be paid from the date of notification under Section 4 of the Act of 1894. But, it gives much more emphasis on the right to receive interest from the date of taking possession of acquired lands. The principle emerges out of the doctrine

that “right to receive interest takes the place of right to retain possession”. Therefore, if there were no any exercise of powers under Sections 16 or 17 of the Act of 1894 by the Collector for taking possession of acquired land, then the amount of interest would be started running from the date on which the excess amount become payable to the claimants i.e. from the date of Award of the Collector under Section 11 of he Act of 1894.

19. In the case of ***Jain R.L. (Dead by L.Rs.) Versus Delhi Development Authority*** reported in ***AIR 2004 SC 1904***, the Honourable Apex Court held that any possession taken including possession taken under Section 16 or 17 of the Act of 1894, prior to issuance of notification under Section 4(1) *de-hors* the Act. In such cases, the land owners would retain title over the property and is entitled to rent/damages and not interest under Section 34 of the Act of 1894, for the period Government retains possession of property. In the case of ***Dr. Shamlal Narula Versus Commissioner of Income Tax***, reported in ***AIR 1964 SC, 1878***, it has been laid down that the statutory interest payable under Section 28 or 34 of the Act of 1894, is not an compensation payable to the claimants – landowners for depriving them of the right to possession of acquired land, but it is to be paid for keeping back the amount payable to the landowners.

20. In the instant matters, it has been contended that possession of acquired lands was taken on 01-01-2009. The claimants produced the copy of letter addressed to Executive Engineer, Minor Irrigation Division, Beed, in which there was sweeping remarks that the possession of acquired lands were taken on 01-01-2009. The learned Reference Court relied upon the present letter and allowed the interest

under Sections 28 and 34 of the Act of 1894 from the date of possession i.e. 01-01-2009.

21. It is worth to mention that, there were no reference in the Award of the SLAO made under Section 11 of the Act of 1894 about the date of taking possession of acquired lands. In contrast, in the column No. 17 of the SLAO's Award, it has been mentioned that the possession of acquired lands were taken through private negotiation prior to declaration of Award under Section 11 of the Act of 1894 and it was agreed to pay rental compensation directly to the claimants-landowners. These circumstances adumbrate that there were no endeavour on the part of SLAO/Collector to exercise the powers under Section 16 or 17 of the Act of 1894 for taking possession of acquired lands. In such circumstances, there is no impediment to draw the inference that the alleged date i.e. 01-01-2009 has no relevance for grant of interest under Sections 28 and 34 of the Act of 1894 in these matters. The learned Reference Court committed error in grant of amount of statutory interest under Sections 28 and 34 from the date i.e. 01-01-2009, under the pretext of taking possession of the acquired lands on that day. The attending circumstances reveals that the respondents-claimants are not entitled for the benefit of statutory interest from the date of alleged taking possession of lands on 01-01-2009, but they are eligible from the date of SLAO's Award made under Section 11 of the Act of 1894 on 04-02-2011 and not from 01-01-2009.

22. In the above premises, I find that the grievances propounded on behalf of appellant-Acquiring Body, in regard to determination of market value of acquired lands and valuation of the fruit bearing trees

made by learned Reference Court deserves no consideration and required to be dismissed. However, the appeals are required to be allowed partly on the limited issue of grant of statutory benefit of interest under Sections 28 and 34 of the Act of 1894.

23. In the result, the First Appeals stand partly allowed. It is hereby directed that the appellant - Acquiring Body shall pay interest under Sections 28 and 34 of the Act of 1894 on the enhanced compensation amount @ 9% p.a. for a period of one year from the date of Award i.e. 04-02-2011, and thereafter, shall pay interest @ 15% p.a. on the enhanced compensation amount till realization of decretal amount. The rest of the reliefs granted by learned Reference Court under impugned Judgment and Award in favour of claimants are made absolute and confirmed. The impugned Award be modified accordingly.

24. In sequel, the First Appeals are disposed of in above terms. No orders as to costs. The decretal amount deposited in these appeals, if any, be remitted back to the concerned Executing/Reference Court forthwith to facilitate the Executing/Reference Court for disbursement of decretal amount amongst the respondents-original claimants as per provisions of law and after due mathematical calculations, if required. Registry to do the needful, accordingly.

25. In view of disposal of First Appeals, pending Civil Applications do not survive and the same are disposed of accordingly.

Sd/-
[K. K. SONAWANE]
JUDGE