

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

**FIRST APPEAL NO. 3071 OF 2018
WITH CIVIL APPLICATION NO. 4845 OF 2017**

The Executive Engineer Minor Irrigation, Ambajogai	... Appellant
Versus	
1. Shankar Vithoba Deshmukh (Died- through L.Rs.)	
1-A] Lata Mahadev Nimbalkar and others	... Respondents

WITH
FIRST APPEAL NO. 3070 OF 2018
WITH CIVIL APPLICATION NO.4866 OF 2017

The Executive Engineer Minor Irrigation, Ambajogai	... Appellant
Versus	
Shivaji Kashinath Raut and others	... Respondents

WITH
FIRST APPEAL NO. 3072 OF 2018
WITH CIVIL APPLICATION NO. 4858 OF 2017

The Executive Engineer Minor Irrigation, Ambajogai	... Appellant
Versus	
Mahadeo Bhagwan Bangar and others	... Respondents

WITH
FIRST APPEAL NO. 3073 OF 2018
WITH CIVIL APPLICATION NO. 4852 OF 2017

The Executive Engineer Minor Irrigation, Ambajogai	... Appellant
Versus	
Trivenibai Mahadeo Dhas [Died] through L.Rs and others	... Respondents

WITH
FIRST APPEAL NO. 3074 OF 2018
WITH CIVIL APPLICATION NO. 4856 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Vaibhav Vikas Gaikwad and others	... Respondents

WITH
FIRST APPEAL NO. 3075 OF 2018
WITH CIVIL APPLICATION NO. 4864 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Trimbak Tukaram Gholwe and others	... Respondents

WITH
FIRST APPEAL NO. 3076 OF 2018
WITH CIVIL APPLICATION NO. 4843 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Sadashiv Tukaram Gholwe and others	... Respondents

WITH
FIRST APPEAL NO. 3077 OF 2018
WITH CIVIL APPLICATION NO. 4854 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Bhanudas Sona Bangar	... Respondents

WITH
FIRST APPEAL NO. 3078 OF 2018
WITH CIVIL APPLICATION NO. 4876 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Chintaman Bapurao Dhas and others	... Respondents

WITH
FIRST APPEAL NO. 3079 OF 2018
WITH CIVIL APPLICATION NO. 4841 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Shantabai Ramchandra Gholwe and others	... Respondents

WITH
FIRST APPEAL NO. 3080 OF 2018
WITH CIVIL APPLICATION NO. 4870 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Kalyan Gorakh Kedar and others	... Respondents

WITH
FIRST APPEAL NO. 3081 OF 2018
WITH CIVIL APPLICATION NO. 4878 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Yekant Dagdu Dhas and others	... Respondents

WITH
FIRST APPEAL NO. 3082 OF 2018
WITH CIVIL APPLICATION NO. 4862 OF 2017

The Executive Engineer
Minor Irrigation, Ambajogai ... Appellant
Versus
Babu Tukaram Gholve and others ... Respondents

WITH
FIRST APPEAL NO. 3083 OF 2018
WITH CIVIL APPLICATION NO. 4872 OF 2017

The Executive Engineer
Minor Irrigation, Ambajogai ... Appellant
Versus
Bhimrao Venkati Gholwe and others ... Respondents

WITH
FIRST APPEAL NO. 3084 OF 2018
WITH CIVIL APPLICATION NO. 4868 OF 2017

The Executive Engineer
Minor Irrigation, Ambajogai ... Appellant
Versus
Vachalabai Madhukar Gholwe and others ... Respondents

WITH
FIRST APPEAL NO. 3085 OF 2018
WITH CIVIL APPLICATION NO. 4860 OF 2017

The Executive Engineer
Minor Irrigation, Ambajogai ... Appellant
Versus
Eknath Satwa Dhas
[Died] Through his L.Rs.
Kashinath Eknath Dhas and others ... Respondents

WITH
FIRST APPEAL NO. 3086 OF 2018
WITH CIVIL APPLICATION NO. 4880 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Ramdas Tukaram Gholve and others	... Respondents

WITH
FIRST APPEAL STAMP NO. 26979 OF 2016
WITH CIVIL APPLICATION NO. 4874 OF 2017

The Executive Engineer	
Minor Irrigation, Ambajogai	... Appellant
Versus	
Uttam Dnyanoba @ Dnyandeo Gaikwad & Ors	... Respondents

....

Mr. R. D. Biradar, Advocate for appellant
Mr. V. M. Chate, Advocate for respondents claimants
Mr. B. V. Virdhe, AGP for the State

....

CORAM : R. G. AVACHAT, J.

DATED : 19th JULY, 2021

PER COURT :-

. The acquiring body has taken exception to the award passed by the Reference Court under Section 18 of the Land Acquisition Act, 1894.

2. Shri Biradar, learned Advocate for the appellant – acquiring body would submit that the enhancement of the compensation granted by the Reference Court is manifold. The sale-deeds Exh.20 to 26 relied upon by the Reference Court for enhancement of the compensation, were executed only with a view to have enhanced compensation. The learned Advocate would also submit that the interest has been awarded in breach of law laid down by the Full Bench judgment of this Court in the case of ***State of Maharashtra vs. Kailash Shiva Rangari – AIR 2016 BOMBAY 141***. The learned Advocate, therefore, urged for setting aside of the impugned award.

3. Learned Advocate for the respondents – claimants supports the impugned award.

4. Considered the rival submissions. Perused the impugned awards. Also gone through the appeal memos to find that the basic challenge to the impugned awards is to grant of interest from the date of notification under Section 4 of the Act.

5. Perusal of the impugned awards lead me to make interference therewith the directions contained therein regarding

grant of interest from the date of notification under Section 4 of the Act i.e. 14.04.2005. The Full Bench judgment of this Court in the case of ***State of Maharashtra v. Kailash Shiva Rangari*** (supra), has held thus:-

“33. (a) If the possession is taken before the notification under Section 4(1) of the Land Acquisition Act is published and/or before the award is passed, the landowner would be entitled for interest as per Section 34 necessarily from the date of passing of the award under Section 11 of the said Act, except in cases where the possession is taken in accordance with Section 17 of the said Act, and in that situation only, the provision of Section 34 of the said Act shall start operating from the date of possession.”

6. Admittedly, possession of the lands has not been taken pursuant to Sections 16 and 17 of the Act. Notification under Section 4 was published on 14.04.2005. The award under Section 11 of the Act has been passed on 11.08.2008. The interest therefore ought to have been awarded from the date of award and not publication of notification under Section 4 of the Act. To this extent, Clause [4] and [5] of the impugned award is modified as under.

7. The date 20.06.2005 appearing in clause [4] of the impugned award is hereby replaced with the date 11.08.2008 and in clause [5] also the date 20.06.2005 is hereby replaced with the date 11.08.2008.

8. Rest of the terms of the impugned award to stand unaltered.
9. The amount of compensation, if any, deposited with this Court or before the Reference Court, be paid to the claimants-respondents in terms of the modified award. The excess amount, if any, be paid back to the acquiring body-appellant in these appeals.
10. The First Appeals are accordingly disposed of.
11. All the pending civil applications are also disposed of.

[R. G. AVACHAT, J.]

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