

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

FIRST APPEAL NO. 2332 OF 2016

The Executive Engineer,
Medium Irrigation Project, Latur
through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ... Appellant

Versus

1. Rajeshwar Madhavrao Patil
Age: Major, Occup. Agriculturist,
2. Dilip Madhavrao Patil
Age: Major, Occup. Agriculturist,
3. Rohidas Madhavrao Patil,
Age: Major, Occup. Agriculturist,
4. Ganesh Madhavrao Patil
Age: Major, Occup: Agriculturist
5. Girish Madhavrao Patil,
Age: Major, Occup: Agriculturist,
All R/o. Lanji, Tq. Ahmedpur, Dist. Latur
6. The State of Maharashtra,
Through The Collector, Latur ... Respondents

**WITH
FIRST APPEAL NO. 2333 OF 2016**

The Executive Engineer
Minor Irrigation Project, Latur
through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ... Appellant

Versus

1. Babu Dasharath Kadam
Age: Major, Occup. Agriculturist,
R/o. Tambatsangavi, Tq. Ahmadpur,
Dist. Latur
 2. The State of Maharashtra
Through The Collector, Latur
 3. The Special Land Acquisition
Officer, Purna Project, Latur ... Respondents
- (R.No.1 is orig.Claimant,
R.No. 2 & 3 are orig. Resp.)

**WITH
FIRST APPEAL NO. 2334 OF 2016**

The Executive Engineer
Minor Irrigation Project, Latur
through Godavari Marathwada Irrigation
Development Corporation, Aurangabad ... Appellant

Versus

1. Vinayak Gyanoba Kachve
Age: Major, Occup: Agriculturist,
R/o. Tambatsangavi, Tq. Ahmadpur,
Dist. Latur
2. The State of Maharashtra
Through The Collector, Latur
3. The Special Land Acquisition
Officer, Purna Project, Latur ... Respondents
(R.No.1 is orig.Claimant,
R.No. 2 & 3 are orig. Resp.)

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Mr. S. G. Bhalerao, Advocate for appellant
Mr. V. P. Latange, Advocate for respondents-claimants
Mr. A. M. Phule, AGP for the State

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CORAM : R. G. AVACHAT, J.

RESERVED ON : 06th JULY, 2021

PRONOUNCED ON : 08th SEPTEMBER, 2021

ORDER :-

. The acquiring body – Minor Irrigation Project, Latur, through Godavari Marathwada Irrigation Development Corporation, Aurangabad, has preferred these appeals against the judgment and award dated 16.11.2013, passed by the learned Joint Civil Judge, Senior Division, Ahmedpur, in Land Acquisition Reference (L.A.R.) Nos. 468, 693 and 694 of 2008.

2. Lands subject matters of these appeals have been acquired for construction of storage tank at village Lanji, Taluka Ahmedpur, District Latur. Having been dissatisfied with the amount of compensation offered by the Land Acquisition Officer(s), the land owners – respondents herein preferred L.A.Rs. The learned Reference Court, on appreciating the evidence in the matters, partly allowed the L.A.Rs. The acquiring body has, therefore, preferred these appeals.

3. Shri S. G. Bhalerao, learned Advocate for the appellant would submit that the Reference Court has blindly relied on the case laws pressed into service on behalf of the land owners. The amount of compensation, therefore, came to be enhanced manifold and without any rational. He would also submit that the interest under Section 34 and/or Section 28 of the Land Acquisition Act, 1894 (for short 'the Act'), has been awarded from the date of publication of notification issued under Section 4 of the Act i.e. from 04.11.2004 and 30.11.2004. The said direction is inconsistent with Full Bench judgment of this Court in the case of ***State of Maharashtra v. Kailash Shiva Rangari – AIR 2016 BOMBAY 141***. The learned Advocate, therefore, urged for allowing the appeals.

4. Shri V. P. Latange, learned Advocate for the respondents - claimants would, on the other hand, submit that the Reference Court has passed well reasoned orders. There is, therefore, no reason to interfere therewith.

5. 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.

6. Perusal of the impugned awards lead me to make interference therewith only to the directions contained therein regarding grant of interest from the date of notification under Section 4 of the Act i.e. 04.11.2004 and 30.11.2004. 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.”

7. 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 04.11.2004 and 30.11.2004. The award under Section 11 of the Act has been passed by the S.L.A.O. on 18.09.2007. The interest under Section 28 and/or 34 of the Act, therefore, ought to have been awarded from the date of award and not publication of the notification under Section 4 of the Act. To this extent, the impugned awards are modified as under:-

8. In all these appeals, the interest under Section 28 and/or 34 of the Act shall be paid to the claimants from the date of award passed by the S.L.A.O. i.e. 18.09.2007 and not from publication of the notification under Section 4 of the Act.

9. Rest of the terms of the impugned awards to stand unaltered.

10. 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 to the acquiring body-appellant in these appeals.

11. The First Appeals are accordingly disposed of.

12. Civil Application Nos. 247/2016, 245/2016 and 242/2016 are disposed of as not pressed. Other pending Civil Applications are also disposed of.

[R. G. AVACHAT, J.]