

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

965 FIRST APPEAL STAMP NO.15032 OF 2020
WITH
CIVIL APPLICATION NO. 3720 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

GANPAT GENU JADHAV AND ORS.

...

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 to 5 : Mr L.C. Patil
AGP for respondent No. 6 : Mr S.G. Sangle

AND

966 FIRST APPEAL STAMP NO.15036 OF 2020
WITH
CIVIL APPLICATION NO. 3722 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

CHANDRABHAN NAMDEV TAIDE (DIED) THR
LRS ZUMBARBAI TAIDE AND ORS.

...

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1A to 1C : Mr L.C. Patil
AGP for respondent No.2 : Mr P.M. Kulkarni

AND

967 FIRST APPEAL STAMP NO.15039 OF 2020
WITH
CIVIL APPLICATION NO. 3726 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

SARUBAI MURLIDHAR TAYDE (DIED)
THR LRS LAXMAN TAYDE AND ORS.

...

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 to 3 : Mr L.C. Patil
AGP for respondent No.4 : Mr S.G. Sangle

AND
968 FIRST APPEAL STAMP NO.15108 OF 2020
WITH
CIVIL APPLICATION NO. 3729 OF 2022

THE EXECUTIVE ENGINEER, MINOR
IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

DADASAHEB BHANUDAS TAIDE AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 and 2 : Mr L.C. Patil
AGP for respondent No. 3 : Mr P.M. Kulkarni

AND
969 FIRST APPEAL STAMP NO.15105 OF 2020
WITH
CIVIL APPLICATION NO. 3731 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

RAOSAHEB BHIKA TAIDE (DEAD) THR
LRS BALASAHEB RAOSAHEB TAIDE AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 to 3 : Mr L.C. Patil
AGP for respondent No. 4 : Mr S.G. Sangle

AND
970 FIRST APPEAL STAMP NO.15100 OF 2020
WITH
CIVIL APPLICATION NO. 3735 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

CHATRABHUJ TATYARAO TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND
971 FIRST APPEAL STAMP NO.15065 OF 2020
WITH
CIVIL APPLICATION NO. 3737 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

DHONDIRAM RAYBHAN KARHALE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND
972 FIRST APPEAL STAMP NO.15119 OF 2020
WITH
CIVIL APPLICATION NO. 3739 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1,
AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

BHANUDAS MURLIDHAR TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND
973 FIRST APPEAL STAMP NO.15113 OF 2020
WITH
CIVIL APPLICATION NO. 3741 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1,
AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

EKNATH BHANUDAS TAIDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil

AGP for respondent No. 2 : Mr S.G. Kulkarni

AND

974 FIRST APPEAL STAMP NO.15085 OF 2020
WITH
CIVIL APPLICATION NO. 3743 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1,
AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

KARBHARI RAMCHANDRA VANJARE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND

975 FIRST APPEAL STAMP NO.15089 OF 2020
WITH
CIVIL APPLICATION NO. 3745 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1,
AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

ASHOK KACHRU TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr S.G. Sangle

AND

976 FIRST APPEAL STAMP NO.15092 OF 2020
WITH
CIVIL APPLICATION NO. 3747 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1,
AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

MACHINDRA PANCHIRAM AHIRE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND
977 FIRST APPEAL STAMP NO.15228 OF 2020
WITH
CIVIL APPLICATION NO. 3749 OF 2022

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1
AURANGABAD THR GMIDC, AURANGABAD

VERSUS

BHAUSAHEB ASARAM CHINDHE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr S.G. Sangle

AND
978 FIRST APPEAL STAMP NO.15367 OF 2020
WITH
CIVIL APPLICATION NO. 3751 OF 2022

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIV. NO.1,
AURANGABAD THR. GMIDC AURANGABAD

VERSUS

MHASU KERU WANJARE AND ANR.

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND
979 FIRST APPEAL STAMP NO.15381 OF 2020
WITH
CIVIL APPLICATION NO. 3753 OF 2022

THE EXECUTIVE ENGINEER MINOR IRRIGATION DIV. NO.1,
AURANGABAD THR. GMIDC AURANGABAD

VERSUS

KACHRU BHIKA TAIDE AND ANR.

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr S.G. Sangle

980 FIRST APPEAL STAMP NO.15054 OF 2020
WITH
CIVIL APPLICATION NO. 3755 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

AJAY KARBHARI TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr P.M. Kulkarni

AND

981 FIRST APPEAL STAMP NO.15057 OF 2020
WITH
CIVIL APPLICATION NO. 3757 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

SHESHERAO DAGADU SHENGULE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr S.G. Sangle

AND

982 FIRST APPEAL STAMP NO.15078 OF 2020
WITH
CIVIL APPLICATION NO. 3760 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

YEDU CHANDRABHAN TAYDE AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 to 3 : Mr L.C. Patil
AGP for respondent No. 4 : Mr P.M. Kulkarni

AND

983 FIRST APPEAL STAMP NO.15237 OF 2020
WITH
CIVIL APPLICATION NO. 3762 OF 2022

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1
AURANGABAD THR GMIDC, AURANGABAD

VERSUS

KACHRU BABURAO TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent No. 1 : Mr L.C. Patil
AGP for respondent No. 2 : Mr S.G. Sangle

AND

984 FIRST APPEAL STAMP NO.15241 OF 2020
WITH
CIVIL APPLICATION NO. 3764 OF 2022

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1
AURANGABAD THR GMDC, AURANGABAD

VERSUS

MANIKRAO MAHADU TAYDE (DIED)
THR LRS KACHRU AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 and 2 : Mr L.C. Patil
AGP for respondent No. 3 : Mr P.M.Kulkarni

AND

985 FIRST APPEAL STAMP NO.15074 OF 2020
WITH
CIVIL APPLICATION NO. 3758 OF 2022

THE EXECUTIVE ENGINEER,
MINOR IRRIGATION DIVISION NO.1, AURANGABAD
THR G.M.I.D.C., AURANGABAD

VERSUS

DNYANESHWAR BHIVSEN BHUSARE AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
Advocate for respondent Nos. 1 to 3 : Mr L.C. Patil
AGP for respondent No. 4 : Mr S.G. Sangle

AND

986 FIRST APPEAL STAMP NO.15321 OF 2020
WITH
CIVIL APPLICATION NO. 3767 OF 2022

THE EX. ENGINEER, MINOR IRRIGATION DIV. NO. 1
AURANGABAD THR GMDC, AURANGABAD

VERSUS

KARBHARI AMBADAS TAYDE AND ORS

Advocate for Applicant : Mr S.G. Bhalerao
 Advocate for respondent Nos. 1 to 3 : Mr L.C. Patil
 AGP for respondent No. 4 : Mr P.M.Kulkarni

AND

987 FIRST APPEAL STAMP NO.15045 OF 2020
 WITH
 CIVIL APPLICATION NO. 3769 OF 2022

THE EXECUTIVE ENGINEER,
 MINOR IRRIGATION DIVISION NO.1,
 AURANGABAD THR G.M.I.D.C., AURANGABAD

VERSUS

LAXMAN BHAURAO TAYDE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
 Advocate for respondent No. 1 : Mr L.C. Patil
 AGP for respondent No. 2 : Mr S.G. Sangle

AND

988 FIRST APPEAL STAMP NO.15049 OF 2020
 WITH
 CIVIL APPLICATION NO. 3771 OF 2022

THE EXECUTIVE ENGINEER,
 MINOR IRRIGATION DIVISION NO.1, AURANGABAD
 THR G.M.I.D.C., AURANGABAD

VERSUS

DHANAJI CHIMAN BHUSARE AND ANR

Advocate for Applicant : Mr S.G. Bhalerao
 Advocate for respondent No. 1 : Mr L.C. Patil
 AGP for respondent No. 2 : Mr P.M. Kulkarni

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 16th March, 2022

PER COURT :

1. By consent, heard finally at admission stage.
2. The controversy in this group of appeals revolves around the rate of

interest awarded by the Reference Court under section 28 and 34 of the Land Acquisition Act, 1894. Rest of the part of Judgment and award passed by the Reference Court is not in dispute and not under challenge.

3. Heard Mr S.G. Bhalerao, learned counsel for the appellant/acquiring body, Mr L.C. Patil, learned counsel for the original claimant and the learned AGPs in respective Appeals for the State.

4. Mr Bhalerao, learned counsel for the appellant/acquiring body invited my attention to the operative orders passed by the Reference Court in LAR Nos. 953/2010, 1389/2010, 1393/2010, 841/2010, 826/2010, 934/2010, 1397/2010, 1105/2010, 1301/2010, 1396/2010, 845/2010, 1586/2010, 946/2010, 1136/2010, 1507/2010, 1583/2010, 1501/2010, 1399/2010, 1132/2010, 1149/2010, 1113/2010, 1511/2010, 1542/2010 and 794/2010 more particularly, clause Nos. 5 and 6. He pointed out that the Reference Court has awarded interest under section 28 as well as under section 34 of the Land Acquisition Act from the date of possession which is contrary to the full bench decision of this Court in case of ***State of Maharashtra, through Sub Divisional Officer and Special Land Acquisition Officer, Darwaha, District Yavatmal Vs. Kailash Shiva Rangari*** reported in ***2016 (3) Mh.L.J. 457***.

5. Mr Bhalerao, learned counsel for the appellant therefore pressed need to modify the Judgment and award to that extent.

6. Mr L.C. Patil, learned counsel for the original claimant has fairly conceded this legal position in view of the full bench decision of this Court referred above.

7. The learned AGPs in respective appeals for the State also conceded this legal position.

8. Having regard to the legal position made clear by the full bench decision of this Court in case of ***State of Maharashtra Vs. Kailash Shiva Rangari*** (supra), it is clear that the Reference Court has committed an error in the eye of law in awarding interest on compensation amount under section 28 of the Land Acquisition Act from the date of possession. The Reference Court has also awarded interest on the compensation amount under section 34 of the Land Acquisition Act from the date of possession. The claimants are entitled to get interest under section 28 and 34 of the Land Acquisition Act, 1894 from the date of award in view of the Full Bench decision (supra). The view taken by the Reference Court is contrary to the full bench decision of this Court. As such, that clause of interest more particularly operative part Nos. 5 and 6 of the order needs to be corrected in the appeal. There is no need to discuss rest of the part of Judgment and award passed by the Reference Court.

ORDER

(A) The appeals stand partly allowed as under :-

(i) The impugned Judgment and award passed in LAR Nos. 953/2010, 1389/2010, 1393/2010, 841/2010, 826/2010, 934/2010, 1397/2010, 1105/2010, 1301/2010, 1396/2010, 845/2010, 1586/2010, 946/2010, 1136/2010, 1507/2010, 1583/2010, 1501/2010, 1399/2010, 1132/2010, 1149/2010, 1113/2010, 1511/2010, 1542/2010 and 794/2010 are hereby partly modified to the extent of awarding interest under section 28 and 34 of the Land Acquisition Act, which shall be read as under :-

Clause - 5 : The respondents shall pay interest under section 28 of the Land Acquisition Act from the date of award till realization of the amount.

Clause - 6 : The respondents shall pay interest under section 34 of the Land Acquisition Act from the date of award till realization of the amount.

- (ii) Rest of the part of Judgment and award stands confirmed.
- (iii) The award be modified accordingly.
- (iv) After making the necessary recalculation in respect of the interest under section 28 and 34 of the Land Acquisition Act, 1894, the compensation amount with interest shall be paid to the original claimants and balance if any be paid to the appellant/acquiring body
- (v) The appeals are disposed of accordingly.
- (vi) In view of disposal of Appeals, civil applications also stand disposed of.

(SHRIKANT D. KULKARNI, J.)

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