

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 624 OF 2022

- | | | |
|---|-------|----------------|
| 1. Kisan (Krishnaji) Aba Kamble since |] | |
| deceased through Legal heir wife |] | |
| Smt. Dondubai Kisan (Krishnaji) Kamble |] | |
| Age – 41 years, Occ. Farmer, |] | |
| Residing at 98, Neharunagar, |] | |
| Vijapur Road, Solapur |] | |
|
2. Mahada Aba Kamble since deceased |
] | |
| through Legal heir son |] | |
| Mr. Bhanudas Mahadeo Kamble |] | |
| Age – 62 years, Occ. - Farmer |] | |
| R/o. 120, Nehrunagar, |] | |
| Vijapur Road, Solapur |] | |
|
3. Sadu Aba Kamle since deceased |
] | |
| through Legal heir wife |] | |
| Smt. Salubai Sadu Kamble |] | |
| Age – 77 years, Occ. - Housewife, |] | |
| R/o. 120, Nehrunagar, Vijapur Road, |] | |
| Solapur. |] | |
|
4. Rajaba Aba Gade since deceased |
] | |
| through Legal heir |] | |
| Smt. Mahadevi Suresh Gade |] | |
| Occ.- Housewife |] | |
| R/o. 120, Nehrunagar, |] | |
| Vijapur Road, |] | |
| Solapur. |] | ...Petitioners |

Vs.

- | | |
|---|-------|
| 1. The State of Maharashtra through |] |
| the Secretary, Revenue and Forest Department, |] |
| Mantralaya, Mumbai – 400 032. |] |
|
2. The Collector of Solapur, |
] |
| Solapur – 413 001. |] |

3. The Special Land Acquisition Officer No. 1,]
Solapur – 413 001.] ...Respondents

Dr. Ramdas P. Sabban a/w Ms. Arundhati Sabban - Advocate for the
Petitioners

Mr. Vasant S. Gokhale - 'B' panel counsel for the Respondents-State.

CORAM : **R. D. DHANUKA AND**
 S. M. MODAK, JJ.

RESERVED ON : 25th FEBRUARY, 2022
PRONOUNCED ON : 04th MARCH, 2022

JUDGMENT (PER S. M. MODAK) :-

. A short issue involved in this petition is about entitlement to interest on enhanced amount of compensation and that too for the duration ranging from the date of award of enhanced compensation till the date of deposit in Court. Most of the facts are undisputed. Even Special Land Acquisition Officer has granted the benefit to the Petitioners by enhancing the amount of compensation. Even he has been granted the statutory interest. He has granted it from the date of possession initially for @ 9% and @ 15 % for subsequent period till the date of the award i.e. 31/03/2016 passed under Section 28-A of the Land Acquisition Act.

2. It is also undisputed that the amount of enhanced compensation is deposited in the Court on 15/03/2017 for Petitioner Kisan Aba Kamble

and on different dates for other three Petitioners. So the issue before us is about grant of interest from 31/03/2016 till the date of deposit of enhanced amount of compensation in Court.

3. Considering this limited controversy we have heard Dr. Shri Ramdas P. Sabban, the learned counsel for the Petitioners and Shri Vasant S. Gokhale, the learned AGP for the Respondents. Rule. Rule made absolute.

4. There are different interest which can be granted as per the provisions of Land Acquisition Act. They are as follows:

(a) Is granted by Land Acquisition Officer under Section 23 (1-A) of Land Acquisition Act.

(b) Collector has to pay interest under Section 34 of Land Acquisition Act, if amount is not paid/deposited on/before taking possession.

(c) Granted by Reference Court under Sections 28 of the said Act when there is enhancement in the amount of compensation.

5. The amount of compensation for land which is acquired has to be first decided by the Land Acquisition Officer and then by the Reference Court if any one is aggrieved. Apart from that, the amount of compensation can also be determined at an enhanced rate by the Collector if there are contingencies under Section 28-A of the Land Acquisition Act. In the case before us, we are dealing with grant of interest when there is a re-determination of the amount of compensation

as contemplated under Section 28-A of the Land Acquisition Act. It will be material to consider the provisions of that Section.

6. The amount of compensation can be re-determined under Section 28-A of the Act in following contingencies :

- (a) Court has enhanced the amount of compensation from the amount awarded by the Collector under Section 11 of the Act.
- (b) The persons claiming re-determination must be the persons having interest in the land covered by the same under Section 4 Notification.
- (c) They can request the Collector for re-determination of the amount (there is no requirement that such persons must have filed a reference under Section 18 of the said Act.)

7. When we have perused the award dated 31/03/2016, we find that the Land Acquisition Officer has considered the material on which he has accepted the claim for enhanced compensation. He has quoted it in para Nos. 4 and 5 of the award. There is no dispute about invocation of the provision of Section 28-A of the Land Acquisition Act in the facts before us. The learned Advocate Dr. Shri Sabban for the Petitioners invited our attention to the calculation of the interest given in the table appearing under para no. 15 of the award. He also invited our attention to the dates of deposit of the compensation in Court given in para no. 7 of the petition. Learned counsel Dr. Shri. Sabban for the Petitioners invited our attention

to the observations of this Court in case of *Uday S. Vaidya and Anr. Vs. State of Goa and Anr.*¹ and more specifically observations in para no. 17, the relevant observations are :

“We make it clear that the delay must be substantial at any rate for payment of such equitable compensation, it should at least be six months. Therefore, cases, where the amount is not paid or deposited within six months from the date of making the award and delay is not on account of the person affected then such person would be entitled to compensation as a rule which would be qualified at the rate of 9% from the date of the Award till the amount is paid.”

8 The learned advocate Dr. Shri Sabban for the Petitioners criticized this approach of SLAO and would submit that the approach is not in consonance with the provisions of Section 34 of the Land Acquisition Act.

9 It may be true that in the original award, interest must have been provided which is liable to be paid, when the amount of compensation is not paid. However once there is re-determination of the amount of compensation, the amount of interest at two different rates needs to be paid on enhanced amount of compensation.

1 2003 0 Supreme (Bom) 657

10. For easy reference, we are referring to a few facts and they are as follows :

Date	Events
12/10/2000	Section 4 Notification published
04/11/2004	Original award declared
31/03/2016	The amount of compensation re-determined by the Deputy Collector in the award (It is referred – Para No. 3)

11. We are not inclined to accept the reasons mentioned by the Deputy Collector (Land Acquisition) for refusing the claim of the interest. It is against the mandate given under Section 34 of the Land Acquisition Act, since the interest has to be paid till the time the amount is paid. Here the amount of enhanced compensation is deposited in the Court on 15/03/2017, 26.12.2016, 05/12/2016 and 06.12.2016. The Special Land Acquisition Officer in the table in the Award has given the calculations. He has fixed the different valuations depending upon type of the land. So the amount of enhanced compensation per Petitioner will depend upon type of the land and area. The interest granted for remaining period has to be calculated on that amount. Both the parties are aware about the same.

12. Hence we are inclined to allow the petition. The amount is enhanced by the reference Court. Remaining interest has to be paid on that amount. The interest has to be paid at the rate of 15% p.a. from the date of Award till the time amount was actually paid or deposited. The necessary calculations has to be done by Deputy Collector (Land Acquisition). Hence the following Order is passed :-

ORDER

- (i) Writ Petition is allowed.
- (ii) The Respondents are directed to pay interest @ 15 % on the amount of enhanced compensation coming to the share of Petitioner Nos.1 to 4 as per the Award dated 31.03.2016 from the date of award i.e. 31/03/2016 till 15/03/2017, 26/12/2016, 05/12/2016 and 06.12.2016 for Petitioner Nos. 1 to 4, respectively.
- (iii) The Respondent Nos.1 and 2 are directed to make payment of amount to the acquiring body after doing the necessary calculation within a period of four weeks. And the acquiring body through the State of Maharashtra is directed to disburse the payment as early as possible.
- (iv) The Respondents are directed to transfer that amount in the respective bank accounts of Petitioner Nos. 1 to 4.
- (v) Rule made absolute. No order as to costs.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]