



(1)

fa1543.23

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

906 FIRST APPEAL NO. 1543 OF 2023

**THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT PARANDA AND ORS**

.....Appellants

VERSUS

BHAGWAN GANGARAM KOLEKAR

.....Respondent

Mr. A. M. Gaikwad, Advocate for the appellants

Mr. A. S. More, Advocate for respondent

AND

911 FIRST APPEAL NO. 4048 OF 2023

AND

FIRST APPEAL NO. 4049 OF 2023

**THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD**

.....Appellant

VERSUS

KRISHNA RAMA GHOGARE (DIED)

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellants

Mr. V. S. Undre, Advocate for the respondent

Mrs. A. S. Mantri, AGP for the respondents/State

AND

913 FIRST APPEAL NO. 4053 OF 2023

**THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD**

.....Appellant

VERSUS

(2)

fa1543.23

ARJUN UDDHAV KASAB (SURYAWANSHI)

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. V. S. Undre, Advocate for the respondent

Mr. A. M. Phule, AGP for the respondents/State.

AND

915 FIRST APPEAL NO. 4057 OF 2023

AND

FIRST APPEAL NO. 4058 OF 2023

AND

FIRST APPEAL NO. 4059 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

SIDDHESHWAR GORAKH GHOGARE

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. V. S. Undre, Advocate for the respondent

Mrs. M. L. Sangit, AGP for the respondents/State

AND

917 FIRST APPEAL NO. 4067 OF 2023

AND

FIRST APPEAL NO. 4070 OF 2023

FIRST APPEAL NO. 4071 OF 2023

FIRST APPEAL NO. 4069 OF 2023

FIRST APPEAL NO. 4068 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

(3)

fa1543.23

DATTATRAYA UDDHAV KASAB

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant
Mr. V. S. Undre, Advocate for the respondent
Mr. V. M. Chate, AGP for the respondents/State

AND

918 FIRST APPEAL NO. 4117 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

BABRUWAN DADARAO SURYAWANSHI

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant
Mr. V. S. Undre, Advocate for the respondent
Mrs. M. L. Sangit, AGP for the respondents/State

AND

919 FIRST APPEAL NO. 4121 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

.....Appellant

VERSUS

ABHIMAN SHAMRAO GHOGARE

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant
Mr. A. S. More, Advocate for the respondent
Mrs. A. S. Mantri, AGP for the respondents/State

AND

920 FIRST APPEAL NO. 4123 OF 2023

FIRST APPEAL NO. 4124 OF 2023

FIRST APPEAL NO. 4125 OF 2023

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fa1543.23

THE EXECUTIVE ENGINEER, DEPARTMENT SEENA KOLEGAON
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

RAMCHANDARA UTTAM GHOGARE

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. V. S. Undre, Advocate for the respondent

Mr. D. B. Bhange, AGP for the respondents/State

AND

922 FIRST APPEAL NO. 4130 OF 2023

FIRST APPEAL NO. 4131 OF 2023

FIRST APPEAL NO. 4132 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

GAHININATH BHAGWAN GHOGARE

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. V. S. Undre, Advocate for the respondent

Mr. G. O. Wattamwar, AGP for the respondents/State

AND

923 FIRST APPEAL NO. 4133 OF 2023

FIRST APPEAL NO. 4134 OF 2023

FIRST APPEAL NO. 4135 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

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fa1543.23

SHASHIKANT CHANDRAKANT PATIL

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. V. S. Undre, Advocate for the respondent

Mr. S. K. Shirse, AGP for the respondents/State

AND

924 FIRST APPEAL NO. 4140 OF 2023

FIRST APPEAL NO. 4142 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

.....Appellant

VERSUS

ASHOK RAMCHANDRA GHOGARE

.....Respondent

Mr. M. S. Kulkarni, Advocate for the appellant

Mr. A. S. More, Advocate for the respondent

Mr. S. K. Shirse, AGP for the respondents/State

AND

925 FIRST APPEAL NO. 4255 OF 2023

FIRST APPEAL NO. 4256 OF 2023

FIRST APPEAL NO. 4257 OF 2023

FIRST APPEAL NO. 4258 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT

....Appellant

VERSUS

ANGAD SOPAN PADULE AND OTHERS

.....Respondents

Mr. R. A. Tambe, Advocate for the appellant

Mr. A. S. More, Advocate for the respondent

Mr. V. M. Chate, AGP for the respondents/State

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AND

926 FIRST APPEAL NO. 4259 OF 2023

FIRST APPEAL NO. 4260 OF 2023

FIRST APPEAL NO. 4261 OF 2023

FIRST APPEAL NO. 4262 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT, PARANDA
....Appellant

VERSUS

MAHADEV DATTA DEVIKAR AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. M. K. Jadhav Mr. A. S. More, Advocate for the respondent

Mrs. M. L. Sangit, AGP for the respondents/State

AND

927 FIRST APPEAL NO. 4723 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT DIV.
PARANDA

....Appellant

VERSUS

KHUSHAL GOVIND JAGTAP DIED THR HIS L.RS. VANMALA
KHUSHAL JAGTAP AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. M. K. Jadhav Mr. A. S. More, Advocate for the respondent

Mrs. A. S. Mantri, AGP for the respondents/State

AND

929 FIRST APPEAL NO. 4725 OF 2023

FIRST APPEAL NO. 4726 OF 2023

FIRST APPEAL NO. 4727 OF 2023

FIRST APPEAL NO. 4728 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT, PARANDA

(7)

fa1543.23

....Appellant

VERSUS

SHRIPAD PURUSHOTTAM BHALERAU AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. A. M. Phule, AGP for the respondents/State

AND

930 FIRST APPEAL NO. 4729 OF 2023

FIRST APPEAL NO. 4730 OF 2023

FIRST APPEAL NO. 4731 OF 2023

FIRST APPEAL NO. 4732 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT PARANDA

....Appellant

VERSUS

SUHAS HARISHCHANDRA PATIL AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. M. K. Jadhav Mr. A. S. More, Advocate for the respondent

Mr. G. O. Wattamwar, AGP for the respondents/State

AND

933 FIRST APPEAL NO. 4743 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT PARANDA

....Appellant

VERSUS

KALYAN RAJENDRA GHOGARE AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. V. M. Chate, AGP for the respondents/State

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fa1543.23

AND

**934 FIRST APPEAL NO. 4744 OF 2023
FIRST APPEAL NO. 4745 OF 2023**

THE EX. ENGINEER, SEENA KOLEGAON PROJECT PARANDA
....Appellant

VERSUS

EKNATH DNYANOBA MISKIN AND ORS
.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant
Mrs. M. L. Sangit, AGP for the respondents/State

AND

**937 FIRST APPEAL NO. 4754 OF 2023
FIRST APPEAL NO. 4755 OF 2023**

THE EX. ENGINEER DEPARTMENT OF SINA KOLEGAON
PROJECT PARANDA

....Appellant

VERSUS

MAHADEO DEVIDAS SHINDE AND ORS
.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant
Mr. A. M. Phule, AGP for the respondents/State

AND

**938 FIRST APPEAL NO. 4756 OF 2023
FIRST APPEAL NO. 4760 OF 2023
FIRST APPEAL NO. 4759 OF 2023**

THE EX. ENGINEER OSMANABAD MEDIUM PROJ. DIV.
PARANDA

....Appellant

VERSUS

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MADHUKAR SADASHIV KOKATE AND ANR

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. G. O. Wattamwar, AGP for the respondents/State

AND

939 FIRST APPEAL NO. 4762 OF 2023

FIRST APPEAL NO. 4761 OF 2023

THE EX. ENGINEER DEPARTMENT OF SEENA KOLEGAON

PROJECT, PARANDA

....Appellant

VERSUS

SATISH RAOSAHEB GHOGARE AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mrs. M. L. Sangit, AGP for the respondents/State

AND

941 FIRST APPEAL NO. 4773 OF 2023

THE EX. ENGINEER SEENA KOLEGAON PROJECT PARANDA

.....Appellant

VERSUS

SUBRAO MOHANRAO PATIL DIED THR LRS AVDHUT SUBRAO

PATIL AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. V. M. Chate, AGP for the respondents/State

AND

955 FIRST APPEAL NO. 560 OF 2024

FIRST APPEAL NO. 561 OF 2024

FIRST APPEAL NO. 562 OF 2024

THE EXECUTIVE ENGINEER SEENA KOLEGAON MEDIUM
PROJECT - KRISHNA KHORE - M I AND P T DIVISION

....Appellant

VERSUS

DADASAHEB VITTHAL SALUNKE AND OTHERS

.....Respondents

Mr. D. R. Jethaliya, Advocate for the appellant
Mr. S. K. Shirse, Advocate for the respondent

AND

956 FIRST APPEAL NO. 564 OF 2024

FIRST APPEAL NO. 565 OF 2024

FIRST APPEAL NO. 566 OF 2024

THE EXECUTIVE ENGINEER SEENA KOLEGAON PARANDA

....Appellant

VERSUS

BALWANT BHAIRU PATIL OTHERS

.....Respondents

Mr. D. R. Jethaliya, Advocate for the appellant
Mr. S. K. Shirse, AGP for the respondents/State

AND

958 FIRST APPEAL NO. 1396 OF 2024

FIRST APPEAL NO. 1397 OF 2024

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT PARANDA AND ORS

....Appellants

VERSUS

KESHAV RAMCHANDRA KULKARNI (DIED) THR LRS
YAMUNABAI (DIED) THR LRS DHANANJAY AND ORS

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fa1543.23

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent
Mr. S. K. Shirse, AGP for the respondents/State

AND

960 FIRST APPEAL NO. 1399 OF 2024

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT AND ORS

....Appellants

VERSUS

BHAGWAN DATTA DEVIKAR

.....Respondent

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

961 FIRST APPEAL NO. 1401 OF 2024

FIRST APPEAL NO. 1402 OF 2024

FIRST APPEAL NO. 1403 OF 2024

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT PARANDA AND ORS

....Appellants

VERSUS

KERBA NIVRATTI KASAB

.....Respondent

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

962 FIRST APPEAL NO. 1405 OF 2024

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THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT, PARANDA AND ORS

....Appellant

VERSUS

AGINATH GOPAL THAVARE AND ORS

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

963 FIRST APPEAL NO. 1406 OF 2024

FIRST APPEAL NO. 1407 OF 2024

FIRST APPEAL NO. 1408 OF 2024

FIRST APPEAL NO. 1409 OF 2024

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT, PARANDA AND ORS

....Appellant

VERSUS

SAKHARBAI KASTURCHAND SHINGAVI AND ORS

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

964 FIRST APPEAL NO. 1410 OF 2024

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT PARANDA AND ORS

....Appellants

VERSUS

EKNATH GANPATI THAVARE (DIED) THR LRS ANJANA AND
ORS

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

**968 FIRST APPEAL NO. 1414 OF 2024
FIRST APPEAL NO. 1415 OF 2024**

THE M.K.V.D.C., THR EX. ENGINEER, SINA KOLEGAON
PROJECT PARANDA AND ORS

....Appellants

VERSUS

SIDDHESHWAR SHAMBHU PADOLE AND ORS

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

**971 FIRST APPEAL NO. 1422 OF 2024
FIRST APPEAL NO. 1423 OF 2024
FIRST APPEAL NO. 1424 OF 2024**

THE M.K.V.D.THR EX. ENGINEER, SINA KOLEGAON PROJECT
PARANDA AND ORS

....Appellants

VERSUS

TUKARAM PARMESHWAR THAWARE AND ORS

.....Respondents

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

**973 FIRST APPEAL NO. 1434 OF 2024
FIRST APPEAL NO. 1437 OF 2024**

FIRST APPEAL NO. 1435 OF 2024

THE M.K.V.D.C., THR EXECUTIVE ENGINEER, SINA KOLEGAON
PRO., OSMANABAD AND OTHERS

.....Appellants

VERSUS

MAHADEO VITHOBA KASAB

.....Respondent

Mr. A. M. Gaikwad, Advocate for the appellant
Mr. A. S. More, Advocate for respondent

AND

931 FIRST APPEAL NO. 4735 OF 2023

FIRST APPEAL NO. 4736 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT

....Appellant

VERSUS

KALIDAS NARAYAN PANDHARE AND OTHERS

.....Respondents

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate for respondent
Mr. D. B. Bhange, AGP for the respondents/State

AND

935 FIRST APPEAL NO. 4747 OF 2023

FIRST APPEAL NO. 4749 OF 2023

FIRST APPEAL NO. 4750 OF 2023

FIRST APPEAL NO. 4751 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON MEDIUM
PROJECT, PARANDA, OSMANABAD

....Appellant

VERSUS

DADA DATU KASAB

(15)

fa1543.23

.....Respondent

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate for respondent s
Mrs. A. S. Mantri, AGP for the respondents/State

AND

**936 FIRST APPEAL NO. 4752 OF 2023
FIRST APPEAL NO. 4753 OF 2023**

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT

....Appellant

VERSUS

HARIDAS LAHU TAKALE AND OTHERS

.....Respondents

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate for respondent
Mr. D. B. Bhange, AGP for the respondents/State

AND

**940 FIRST APPEAL NO. 4763 OF 2023
FIRST APPEAL NO. 4764 OF 2023
FIRST APPEAL NO. 4765 OF 2023
FIRST APPEAL NO. 4766 OF 2023
FIRST APPEAL NO. 4767 OF 2023
FIRST APPEAL NO. 4768 OF 2023
FIRST APPEAL NO. 4769 OF 2023**

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT,
DIVISION PARANDA, TQ PARANDA DIST OSMANABAD

....Appellant

VERSUS

NULAJI MANIK GADHAVE DIED THRO LRS

.....Respondents

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate for respondent
Mr. S. K. Shirse, AGP for the respondents/State

AND

942 FIRST APPEAL NO. 4776 OF 2023

FIRST APPEAL NO. 4775 OF 2023

FIRST APPEAL NO. 4777 OF 2023

FIRST APPEAL NO. 4778 OF 2023

FIRST APPEAL NO. 4779 OF 2023

FIRST APPEAL NO. 4780 OF 2023

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT

.....Appellant

VERSUS

ABHIMAN EKNATH PADULE AND OTHERS

.....Respondents

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate and Mr. M. K. Jadhav, Advocate for
respondent
Mrs. M. L. Sangit, AGP for the respondents/State

AND

949 FIRST APPEAL NO. 505 OF 2024

FIRST APPEAL NO. 501 OF 2024

FIRST APPEAL NO. 502 OF 2024

FIRST APPEAL NO. 503 OF 2024

FIRST APPEAL NO. 504 OF 2024

THE EXECUTIVE ENGINEER SEENA KOLEGAON MEDIUM
PROJECT OSMANABAD

....Appellant

VERSUS

DATTATRAYA VENKATESH BHALERAU AND OTHERS

.....Respondents

Mr. D. R. Jethliya, Advocate for the appellant
Mr. A. S. More, Advocate for the respondent
Mr. V. M. Chate, AGP for the respondents/State

AND

**93 FIRST APPEAL NO. 4220 OF 2023
FIRST APPEAL NO. 4219 OF 2023**

THE EXECUTIVE ENGINEER, SEENA KOLEGAON PROJECT, TQ
PARANDA, DIST OSMANABAD

....Appellant

VERSUS

SANTARAM DEVIDAS THAVARE

.....Respondent

Mr. R. A. Tambe, Advocate for the appellant
Mr. A. S. More, Advocate for respondent
Mr. S. K. Shirse, AGP for the respondents/State

RESERVED ON : 03rd JULY, 2024

AND

**905 FIRST APPEAL NO. 1441 OF 2024
FIRST APPEAL NO. 1442 OF 2024
CIVIL APPLICATION NO. 7423 OF 2022
IN FA/1442/2024
CIVIL APPLICATION NO. 7425 OF 2022
IN FA/1441/2024**

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION,
USMANABAD THR G.M.I.D.C, AURANGABAD

(18)

fa1543.23

....Appellant

VERSUS

JAGANNATH GANPATI MITKARI AND ANR

.....Respondents

Mr. S. G. Bhalerao, Advocate for the appellant

Mr. R. V. Naiknavare, Advocate for the respondent

Mrs. M. L. Sangit, AGP for the respondents/State

AND

906 FIRST APPEAL NO. 1443 OF 2024

FIRST APPEAL NO. 1444 OF 2024

FIRST APPEAL NO. 1481 OF 2024

FIRST APPEAL NO. 1446 OF 2024

FIRST APPEAL NO. 1447 OF 2024

FIRST APPEAL NO. 1445 OF 2024

CIVIL APPLICATION NO. 7079 OF 2022

IN FA/1444/2024

CIVIL APPLICATION NO. 7081 OF 2022

IN FA/1446/2024

CIVIL APPLICATION NO. 7089 OF 2022

IN FA/1447/2024

CIVIL APPLICATION NO. 7091 OF 2022

IN FA/1443/2024

CIVIL APPLICATION NO. 7083 OF 2022

IN FA/1445/2024

CIVIL APPLICATION NO. 7084 OF 2022

IN FAST/9253/2020

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION,

USMANABAD THR G.M.I.D.C, AURANGABAD

....Appellant

VERSUS

SHIVRAM SITARAM PATOLE AND ORS

.....Respondents

Mr. S. G. Bhalerao, Advocate for the appellant

Mr. N. J. Patil, Advocate for the respondent

Mrs. A. S. Mantri, AGP for the respondents/State

AND

907 FIRST APPEAL NO. 1459 OF 2024

FIRST APPEAL NO. 1462 OF 2024

FIRST APPEAL NO. 1461 OF 2024

FIRST APPEAL NO. 1460 OF 2024

FIRST APPEAL NO. 1463 OF 2024

CIVIL APPLICATION NO. 7541 OF 2022

IN FA/1458/2024

CIVIL APPLICATION NO. 7547 OF 2022

IN FA/1462/2024

CIVIL APPLICATION NO. 7545 OF 2022

IN FA/1459/2024

CIVIL APPLICATION NO. 7543 OF 2022

IN FA/1461/2024

CIVIL APPLICATION NO. 7549 OF 2022

IN FA/1460/2024

CIVIL APPLICATION NO. 7551 OF 2022

IN FA/1463/2024

THE EX. ENGINEER, MINOR IRRIGATION DIVISION,

OSMANABD THR G.M.I.D.C., AURANGABAD

....Appellant

VERSUS

NAVNATH NARHARI RITE AND ORS

.....Respondents

Mr. S. B. Bhalerao, Advocate for the appellant

Mr. D. B. Bhange, AGP for the respondents/State

AND

908 FIRST APPEAL NO. 1465 OF 2024

FIRST APPEAL NO. 1464 OF 2024

FIRST APPEAL NO. 1469 OF 2024

FIRST APPEAL NO. 1468 OF 2024

FIRST APPEAL NO. 1466 OF 2024

FIRST APPEAL NO. 1467 OF 2024

CIVIL APPLICATION NO. 7214 OF 2022

IN FA/1464/2024

CIVIL APPLICATION NO. 7220 OF 2022

IN FA/1469/2024

CIVIL APPLICATION NO. 7218 OF 2022

IN FA/1465/2024

CIVIL APPLICATION NO. 7216 OF 2022

IN FA/1468/2024

CIVIL APPLICATION NO. 7224 OF 2022

IN FA/1466/2024

CIVIL APPLICATION NO. 7222 OF 2022

IN FA/1467/2024

THE EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION,
USMANABAD THR G.M.I.D.C., AURANGABAD

....Appellant

VERSUS

JAMWANTIBAI VENKAT KAPSE (DIED) THR LRS VISHWAS
VENKAT KAPSE AND ORS

.....Respondents

Mr. S. G. Bhalerao, Advocate for the appellant

Mr. N. J. Patil, Advocate for the respondent

Mr. A. M. Phule, AGP for the respondents/State

RESERVED ON : 05th JULY, 2024

AND

19 FIRST APPEAL NO. 4733 OF 2023

FIRST APPEAL NO. 4734 OF 2023

THE EX. ENGINEER, SEENA KOLEGAON PROJECT, PARANDA
.....Appellant

VERSUS

SADASHIV KERA HAJARE AND ORS

.....Respondents

Mrs. S. D. Shelke, Advocate for the appellant

Mr. A. S. More, Advocate and Mr. R. V. Naiknavare, Advocate for
the respondent

Mrs. M. L. Sangit, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

RESERVED ON : 08th JULY, 2024

PRONOUNCED ON : 16th AUGUST, 2024

JUDGMENT

1. Since common questions are involved in all these appeals, these are taken together and are being disposed off by common judgment. The first question is as to which is a material date for grant of interest under Section 28 of the Land Acquisition Act. Whether it is to be granted from the date of taking of possession of the lands of claimants, if possession is

taken prior to notification under section 4(1) of the Act, or it is to be granted from the date of award or any other date. Second question is that whether the judgment in the case of State of Maharashtra Vs Kailash Shiva Rangari reported in 2016 (3) Mh.L.J. 457 and followed in the case of State of Maharashtra Vs Ramesh Tukaram Meshram and another reported in 2018 (1) ALL MR 645 is applicable in these case.

2. In all these appeals the learned reference court has granted interest to the claimants on the amount of compensation from the date of actual taking of possession of lands. Possession of land in all these cases is taken prior to notification under Section 4(1) of the Act. These appeals are thus, filed for limited purpose challenging award of interest from the date of possession and not from the date of award. It is the submission of the learned advocate for acquiring body that this case is clearly covered by the judgment in the case of Kailash Shiva Rangari (supra) and Ramesh Tukaram Meshram (supra) this position is disputed by the claimants.

3. It is the submission of the claimants that the said judgments are not applicable to the present cases. The judgment in the case of Kailash Shiva Rangari (Supra) is given considering judgment of the Hon'ble Supreme Court in the case of R. L. Jain (D) by LRs Vs V. D. D. A. and others reported in AIR 2004 SC 1904. Both the judgments deal with the aspect of grant of interest under Section 34 of the Act and not in respect of section 28 of the Act. The judgment in the case of Ramesh Tukaram Meshram (supra) is not in tune with the judgment in the case of Kailash Shiva Rangari (supra) and R. L. Jain (D) by LRs (supra). The claimants therefore, support the impugned judgments.

4. Heard the parties for quite some time.

5. For understanding the exact dispute few facts are taken from the lead matter i.e. first appeal No. 1543/2023. In this case, the facts in short are that, the respondent-claimant

was the owner of various lands acquired for Sina Kolegaon project situated at Kaudgaon, Tq. Paranda, Dist. Osmanabad.

6. For the purpose of acquisition notification under Section 4(1) of the Act was published in the Government Gazette on 24-07-1997. Declaration under Section 6 was published in the Gazette dated 18-03-1999. The claimants received notice under Section 12(2) of the Act on 18-08-2006. Before publishing of the notifications under Section 4 of the Act, the possession of the land was already taken. The reference court directed to pay interest under Section 28 of the Act from the date of publication of notice under Section 4(1) i.e. from 24-07-1997. Since other facts and rate of lands are not in dispute, this court need not go into further details. The appellant acquiring body filed appeal only to the extent that the interest is directed to be paid from the date of possession instead of granting the same from the date of award.

7. Mr. A. M. Gaikwad, learned advocate for the

appellant in a lead case, argued at length. He submits that the learned reference court could not have granted interest from the date of taking possession of the land, on the strength of the judgment in the case of R. L. Jain (Supra), Kailash Shiva Rangari (supra) and Ramesh Tukaram Meshram (supra).

8. He submits that as per the scheme of the act notification under section 4(1) only shows that the government is intending to acquire the land. Section 5 of the Act authorizes the authorities to inspect the land by visiting the lands likely to be acquired and objections are called under Section 5(1-a). Section 6 is a declaration that the lands are required by the Government for the purposes under the Act. Section 9 is only a notice to the persons interested. Section 11 provides the powers of the Collector to pass an award. It is section 12 which gives finality to the award. It is only after award is passed the authorities can take possession of the land under Section 16. It is only a possession taken under Section 16 that passes the title of the land in favour of the government/acquiring body. Till that

date title is with the owner of the land /claimants. It is only in exceptional circumstances under Section 17 the Government can take possession by invoking emergency clause, where considerations for grant of compensation are distinct. Thus, for the purpose of grant of interest, it is the date of possession, when possession is taken under Section 16 of the Act is the material date. Thus, the claimant himself is owner of the land till that date. This argument is adopted by all the lawyers for the appellants.

9. Mr. Mulkul Kulkarni, learned Advocate adopts argument of Mr. A. M. Gaikwad. In addition he submits that purpose of notification under Section 4(1) is only to give the point at which market value is to be determined. This notification does not take away title of the owner over the land. If possession is taken prior to this event owner is entitled only to get rental compensation or damages. This submission is made in view of the judgment which are already stated above. In addition he relied upon the judgment in the case of

Gurpreetsingh Vs Union of India reported in 2006 AIR (SCW) 5813.

10. Respective AGPs support arguments of the appellants.

11. To counter this argument learned advocate Abhijit Chaudhary for the claimants submits that the judgment in the case of *Kailash Shiva Rangari* (supra) deals only with the aspect of grant of interest under Section 34 of the Act. The analogy in the judgment of *Kailash Shiva Rangari* (Supra) is wrongly applied in the case of *Ramesh Tukaram Meshram* (supra). In the case of *Ramesh Tukaram Meshram* (supra) question was of grant of interest under Section 28. He further submits that at any rate that judgment would not be applicable while considering question of grant of interest under Section 23(1-A) and section 28. The starting point is only dispossession of owner from the land even if it is prior to notification under Section 4(1). He relied upon the judgment reported in *2011 11 page 648 in the*

case of Revenue Divisional Officer, Karnool District Vs M. Ramkrishna Reddy. In any case, he submits that interest needs to be granted at the most from the date of publication of section 4(1) notification. He also relied upon the judgment reported in AIR 2021 SC 4962 in the case of Shankarrao Bhagwantrao Patil Etc. Vs State of Maharashtra. His main submission is that grant of interest under Section 34 is different from section 28 and Section 23(1A). He lastly relied upon the judgment reported in Manu/MH/0733/2012 in the case of Lalitkumar Shah Vs State of Maharashtra. He ultimately submits that the appeal needs to be dismissed. The learned advocate for the claimants in other appeals adopted his arguments.

12. Thus, on hearing the arguments, this court needs to consider whether reference courts in these cases have rightly granted interest from the date of possession in the present case in the light of the judgment of the full bench in the case of Kailash Shiva Rangari (supra) followed in the judgment of Ramesh Meshram (supra) on grant of interest under Section 28

and 34 of the Act.

13. In view of the judgment in the case of *Kailash Rangari (supra)* it is clear that section 34 interest is to be awarded only from the date of award under Section 11 or from the date of possession, if said possession is taken in the manner provided by the act i.e. under section 16. This court is not considering possession taken under Section 17 of the Act. In the present case, the possession is taken prior to notification under Section 4(1). Though the possession is taken prior to such notification, it cannot be taken to be a starting point for grant of interest under Section 34.

14. So far as Section 28 interest is concerned, this court in the case of Ram has clearly held that the interest is payable even under this section from the date of award and if the possession is taken pursuant to section 16 of the Act then from the date of possession whichever is earlier. No case is made out to take a different view than taken in the case of Ramesh

Meshram (supra).

15. So far as interest under Section 23(1A) is concerned the Hon'ble Supreme Court in the case of Siddappa Visappa Kuri and Anr Vs Special Land Acquisition Officer and another reported in 2002(1)ALL MR 262 (SC) has clearly held that the starting point is only section 4(1) till the date of award under Section 11.

16. Thus, considering all above, this court finds that in the present case, the learned reference courts have erred in directing payment of interest from the date of actual possession or from the date of section 4(1) notification. Said needs to be modified by directing to pay interest under Section 28 and 34 from the date of award under Section 11. So far as interest under Section 23(1A) is concerned, there is no error committed by the learned trial court.

17. All the appeals are thus stand disposed off in above terms.

18. In view of disposal of the appeals, pending civil applications, if any do not survive and are disposed off.

[KISHORE C. SANT, J.]

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