IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 444 OF 2010
WITH
CIVIL APPLICATION NO. 4545 OF 2024

1. Sharad Shankarappa Halkude
   Age: 42 years, Occu.: Agri.

2. Jaiprakash Shankarappa Halkude
   Age: 45 years, Occu.: Agri.

3. Mallikarjunappa Shankarappa Halkude
   Age: 51 years, Occu.: Agri.

   All R/o Renapur, Tq. Renapur,
   Dist. Latur ..APPELLANTS

VERSUS

1. State of Maharashtra
   Through Dist. Collector, Latur

2. Tahsildar/Executive Magistrate,
   Renapur, Tq. Renapur, Dist. Latur

3. Sub-Divisional Officer
   Land Acquisition Officer, Latur ..RESPONDENTS

WITH
FIRST APPEAL NO. 863 OF 2015

1. State of Maharashtra
   Through Dist. Collector, Latur

2. Tahsildar/Executive Magistrate,
   Renapur, Tq. Renapur, Dist. Latur

3. Sub-Divisional Officer
   Land Acquisition Officer, Latur ..APPELLANTS

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Mr. S.S. Halkude, Advocate for appellants in FA/444/2010 and for respondents in FA/863/2015
Mrs. V.S. Chaudhary, A.G.P. for respondents in FA/444/2010 and for appellants in FA/863/2015

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CORAM : R.G. AVACHAT AND NEERAJ P. DHOTE, JJ.
RESERVED ON : 09th MAY, 2024
PRONOUNCED ON : 20th JUNE, 2024

JUDGMENT (PER : R.G. AVACHAT, J.) :

1. Both these appeals are decided by this common judgment since the challenge therein is to one and the same judgment and award dated 31st August, 2009 passed by the Court of Civil Judge Senior Division, Latur in Land Acquisition Reference (L.A.R.) No. 90 of 2000. The first appeal (444 of 2010) has been preferred by the original claimants (land owners), whose agricultural lands came to be acquired for public purpose. The Land Acquisition Officer ('L.A.O.') offered compensation considering the acquired lands to be the agricultural lands, whereas the reference Court has granted compensation on square foot basis. The rate awarded by reference Court is

Rs.60/- per sq.ft., with a rider of deduction of 20% thereof towards development charges.

2. The appellants had made a demand of Rs.100/- per sq. ft. Having been dissatisfied with the award, first appeal (444 of 2010) has been preferred seeking enhancement to that extent. The respondent – State and its authorities have preferred the other appeal (863 of 2015) taking exception to the grant of compensation on square foot basis. In short, the State's appeal is for reduction of amount of compensation awarded by the reference Court. For the sake of convenience, the parties are referred as per their status in First Appeal No. 444 of 2010.

FACTS :-

3. The appellants are siblings. They owned agricultural lands, bearing Gut Nos. 1090, 1091 and 1092 situated at Renapur. The lands admeasure 6H 35R, 3H 97R and 6H 75R respectively. The lands admeasuring 80R, 25R and 82R from the respective lands i.e. total 1H 87R came to be acquired for construction of administrative building and Tahsil office at Renapur.

4. Before the reference Court, three sale instances were relied on (Exh.25 to 27). The last sale instance pertains to sale-deed dated 11^{th}

January, 1996. Perusal thereof indicates land admeasuring 600 sq. ft. from the land adjoining the land acquired of the appellants came to be purchased for Rs.48,000/-. Other two sale instances would be relied on while appreciating the evidence. The appellants have also relied on the judgment passed by the reference Court in Land Acquisition Reference (L.A.R.) No. 411 of 1999 granting compensation @ Rs.46/- per sq. ft.

5. Learned counsel for the appellants would submit that Renapur town was a big revenue circle. The town has been developed in all respect. Most of the lands at and around the lands acquired have already been used for non-agricultural purpose. On two sides of the lands acquired, there are public roads. One of the two roads is a State highway. On the other two sides, there are government offices such as Zilla Parishad School and Agriculture Produce Market Committee. According to learned counsel, as such, the land has potentiality of non-agriculture use. The purpose for which the lands were acquired also needed to be taken into consideration. According to him, on the date of publication of notification under Section 4 of the Land Acquisition Act, 1894 ('the Act'), the market price of the land was not less than Rs.100/- per sq. ft. He would further submit that the land was acquired for construction of administrative building and Tahsil office. The entire land acquired would necessarily be put to the purpose for which it has been acquired. Learned counsel mean to say that in such case and more

particularly it being not a small piece of plot, there ought not to have been deduction made by the reference Court towards land development charges. Learned counsel relied on the following authorities :-

I	Administrator Genl. Of West Bengal Vs. Collector, Varanasi	AIR 1988 SC 943
II	Raval Maneklal Motiram Vs. State of Gujrat	AIR 1991 GUJARAT 13
III	Bhagwathula Samanna & Ors. Vs. Special Tahsildar & Land Acquisition Officer	(1991) 4 SCC 506
IV	A.S. Krishna & Co. Pvt. Ltd. Vs. Land Acquisition Officer (Deputy Collector) Hyderabad	(1992) 1 SCC 141
V	Ram Piari and Anr. Vs. Land Acquisition Collector, Solan and Ors.	(1996) 8 SCC 338
VI	Special Tahsildar (Adi Dravidar Welfare) Vs. Abdul Reguman	AIR 1996 MADRAS 198

6. After the matter was reserved for judgment, learned counsel for the appellants placed on record written notes of argument, wherein he propose to raise following points :-

(i) This is the most valuable parcel of land in the locality.

(ii) There was no other land available on the main road (State Highway, now it is National Highway)

(iii) This parcel of land was surrounded by govt. offices, public buildings and commercial building i.e. Agricultural Produce Market Committee, Zilla Parishad High School, Government Civil Hospital

(iv) Government wanted to have such parcel of land in the developed area where one building can be constructed for all Taluka offices including Tahsil.

(v) This parcel of land was the only land in the adjacent to previously existing public and government buildings.

7. He would further submit that when there was no evidence or allegation about the sale-deed to be not bonafide or otherwise, the reference Court ought not to have refused to rely on the sale-deed dated 11th January, 1996. According to him, the sale-deed has also been considered in L.A.R. No. 411 of 1999 for determining the compensation. An additional point has also been raised on the ground of interest under Sections 28 and 34 of the Act relying on the following authorities :-

I	State of Maharashtra Vs. Kailash Shiva Rangari	2016 (3) Mh.L.J. 457
II	State of Maharashtra Vs. Laxman Bhau Dambre (died) through L.Rs. Shewantabai Laxman Dambre & Ors.	2020 (6) Mh.L.J. 482

8. Learned A.G.P. would, on the other hand, submit that on the date on which the lands were acquired, those were the agricultural lands. Our attention has been drawn to the 7/12 extracts of the lands acquired. According to him, the purpose for which the lands put to acquisition is not a fact to be considered for grant of compensation. According to him, the L.A.O. has rightly granted compensation on the basis of the lands being agricultural lands. According to learned A.G.P., the reference Court erred in granting compensation on square foot basis. In the memo of appeal it has been averred that the deduction towards development charges should have been more than 30% since 30% of the lands acquired would be required to be used for construction of internal roads and maintenance of open space. He would further submit that the reference Court committed error in granting

compensation of Rs.60/- per sq.ft. when the appellants themselves have relied on judgment in L.A.R. No. 411 of 1999, wherein the compensation has been awarded @ Rs.46/- per sq. ft. with certain deductions. Learned A.G.P. meant to say that the appellants in fact wanted to be granted compensation equal to that of the one granted in L.A.R. No. 411 of 1999. He, therefore, urged for dismissal of appeal of the appellants and allowing of State's appeal.

9. Considered the submissions advanced. Perused the evidence on record. Following points arise for determination :-

(I) Whether the compensation awarded by reference Court is just, reasonable and proper one?

(II) Whether the compensation awarded by reference Court is required to be enhanced? If yes, to what extent?

(III) What order?

<u>REASONS</u> :-

10. The appellants are the brothers. They were owners of the agricultural lands bearing Gut Nos. 1090, 1091 and 1092 situated at Renapur. The lands admeasure 6H 35R, 3H 97R and 6H 75R respectively. The lands admeasuring 86R, 25R and 82R from the respective lands came to be acquired for public purpose i.e. for construction of administrative building and Tahsil office at Renapur. Before the reference Court, the respondent – State did not adduce any evidence. Some of the observations made by learned reference Court are speaking and convincing one. We, therefore,

purpose to reproduce the same. Relevant parts of paragraph nos.12 and 13 of the impugned judgment read thus :-

> *"12. ….. The purpose for which the lands are acquired by the Government is relevant. The lands are not acquired by the Government for the agriculture purpose. The lands are acquired for N.A. use i.e. for the construction of the administrative building and Tahasil office by the Government. When the lands are acquired for N. A. purpose the market value also can be determined on the basis of this square feet. Admittedly to the both side of the acquired Gat number there are the construction of the building namely the agriculture produce market committee Renapur and Zilla Parishad School and high school. The Learned Advocate for the State has disputed that, the acquired lands are adjacent to the road. For this purpose the award is relevant. The admitted fact in favour of the claimant can be taken from the award. In this award the claimant has written that to the Southern side of the acquired land there is Government road (Renapur to Latur). In reference petition the claimants have shown Latur to Udgir State high way to the Southern side of the road and Renapur-Samsapur Government road connecting to Latur-Ambajogai State high way on the North side. Thus the claimants have shown the roads on both sides of the acquired land. For this purpose it requires to be seen the map of the village Renapur vide Exh. 31. After perusal of this map it is seen that, the G. No. 1090, 1091 and 1092 are adjacent to each other and from one side of these three Gat numbers there is Samsapur to Renapur road and at another side there is Latur Renapur to Udgir road. This goes to show that, the contention of the Learned A.G.P. that, the acquired land is not adjacent to road is falsified and on the contrary it is proved that, Latur- Udgir state high way passes from one side and one Government road passes from the another side of the acquainted land and the acquired land is a big piece of the land acquired by the Government for administrative building and Tahasil office. Therefore, it can be said that, the boundaries given by the claimants in their reference are totally correct. Unless and until map is perused will not be clear. One fails to understand as*

to why L.A.O. failed to show Samsapur to Renapur road from the one side of the acquired land.

13. The contention of the claimant that, the acquired land is situated within the developed area of the Renapur taluka from the southern side and there is existence of agriculture market produce on one side and Zilla Parishad High School on another side are not denied by the respondents at the time of cross examination of the claimant. The existence of the Government hospital, Veterinary Health Center, Government quarters exactly opposite to the acquired land and adjacent to the Renapur and Udgir road has also not been denied by the respondents. The distance in between Latur-Ambajogai State high way and the acquired land is of 1 k.m. has also not been disputed by the respondents. The existence of the various facilities at Renapur i.e. nationalized bank, Colleges, Zilla Parishad school for boys and girls, I.T.I. colleges, private schools and colleges, M.S.E.B. division office, Government godowns, Co-operative oil mills, private saw mill, big S.T. stand, Gram Panchayat building, Tahasil office, Panchayat Samiti and other Government taluka offices are not denied by the respondents. All the lands on the both sides of the Renapur-Pimpalfata have already been occupied by the various commercial, Government and private establishments has also not been disputed by the respondents. Therefore, the acquired land is having N. A. potential. The existence of the S.T.D./telephone exchange office, water supply system, consolidation office, and other Government offices are also there and they are not denied. Two weekly bazarss of animal and also not denied by the respondents in the proximity of the acquired land on Renapur to Pimpalfata road. The existence of the Renukadevi temple which a historical temple and tourist center has also not been disputed by the respondents. The respondents have also not disputed that there is development of the Renapur Pimpalfata and Renapur to Udgir road only. Under such situation it can be said that the acquired land is situated in the developed area of the Renapur. The Exh. 19 i.e. letter of the Tahasildar Office goes to show that, the N. A. application of the claimants is also pending since long before the Tahasil office. Nothing has been brought on record on behalf of the respondents at the time of the cross examination of *the claimants. Existence of all the facilities at Renapur and its developed situation has been proved by the claimants."*

11. Section 23 of the Act speaks about the matters to be considered in determining compensation. The very first clause thereof speaks of the market value of the land at the date of publication of notification under Section 4, sub-Section 1, whereas Section 24 speaks regarding matters to be neglected in determining the compensation. Clause 5 thereof speaks of any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired. We are very much conscious of the authorities of the Apex Court and this Court as well pronouncing that if the land acquired has N.A. potential, the amount of compensation may be granted considering the same. Admittedly, the L.A.O. granted compensation considering the acquired land to be agricultural lands. The reference Court granted compensation on square foot basis for good reasons. We are in the agreement with the reasons given by the reference Court in awarding compensation on the basis of rate per square foot. The evidence on record undoubtedly indicates village/town Renapur was developing. On the two sides of the acquired landS there were public roads, while on the other two sides official buildings have already come up.

12. We have to go by the evidence on record. While adducing the evidence, the appellants have placed on record certain sale instances. The first sale instance (Exh.25) is dated 11^{th} January, 1996. It pertains to the sale

of a small piece of land admeasuring 30 ft. x 20 ft. i.e. it was a plot of land admeasuring 600 sq. ft. sold for Rs.48,000/-. We have perused the said sale deed. We do not find any reference thereof as regards execution of an agreement of sale long before the sale deed was executed. The said land forms part of the land adjoining the lands acquired. The recitals of the sale deed indicate that the vendor has admitted to have received entire sale consideration before execution of the sale-deed. The sale-deed is conspicuously silent when did he receive the entire amount of consideration. It is just surprising that the purchaser paid the vendor entire consideration amount in cash but did not receive possession of the plot sold under the sale deed on the date on which the entire consideration amount was paid. It has been mentioned in the sale-deed that possession of the plot was handed over to the purchaser on the date on which the sale deed was executed. In our view, since the sale-deed was executed only few days after the publication of notification under Section 4 of the Act, the reference Court was justified in not relying on the same. It also pertains to a very small piece of land, even not converted into N.A.

13. We have perused the judgment in case of Raval Maneklal Motiram (supra), wherein it has been observed thus :-

> *"(E) Land Acquisition Act (1 of 1894), S.23 – Compensation – Market value – Determination – Sale instance of land only two miles away from land in question – Sales registered near to date of notification in question either immediately before date of*

publication or immediately thereafter – No evidence showing that villagers knew well before a period of 2-3 years of publication of notification in question that their lands were to be acquired in near future – Sale instances cannot be discarded."

14. It needs no mention that every observation made in the judgment has to be taken to have been made in the facts and circumstances of the case. In the case relied on, there was no evidence showing that the villagers knew very well before the publication of notification in question that lands to be acquired in near future, and therefore, sale instances relied on were not discarded.

15. We have also perused the judgment in case of Bhagwathula (supra). The observations made therein are as follows :-

"In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. While comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. But the proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. A fully developed small plot in an important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. If the larger tract of land because of

advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.

In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction. However, in applying this principle of deduction it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. If smaller area within the large tract is already developed and situated in an advantageous position suitable for building purposes and have all amenities such as roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified."

16. We have also perused the judgments referred to in appeal memo wherein all those cases certain percentage of deduction towards development charges have been held to be permissible.

17. In case of Bhagwathula (supra), the Apex Court observed thus :-

"11. The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage,

electricity, communications etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

12. The national highway runs very near to the proposed Port-trust colony. The lands acquired already for the South Eastern Railway Staff Quarters lie to the southern side of the land under acquisition. The town planning trust road runs on the northern side of the land under acquisition. The colony is in the fast developing part of the municipal town. The plot of Ac. 1.68 cents in Survey No. 2/2A acquired for the formation of the diversion road is adjacent to built-in-area. The land involved in these cases is of even level and fit for construction without the necessity for levelling or reclamation. The High Court has itself concluded on the evidence that the lands covered by the acquisition are located by the side of the National Highway and the southern railway staff quarters with the town planning trust road on the north. The neighbouring areas are already developed ones and houses have been constructed, and the land has potential value for being used as building sites. Having found that the land is to be valued only as building sites and stated the advantageous position in which the land in question lies though forming part of the larger area, the High Court should not have applied the principles of deduction. It is not in every case that such deduction is to be allowed. Where the acquired land is in the midst of already developed land with amenities of roads, electricity etc., the deduction in the value of the comparable land is not warranted.

18. Similarly, in case of Special Tahasildar (Adi Dravidar Welfare) Vs. Abdul Reguman, AIR 1996 Madras 198, it has been observed thus :-

"(B) Land Acquisition Act (1 of 1894), Section 23 – Compensation – Fixation – Acquisition of land for purpose of building free houses – Land in question situated in fully developed area not requiring any further improvements or development and quite suitable for building purpose – Deduction of 20% for pathway from compensation amount – Not proper."

19. The observations therein were based on the judgment of Apex Court in case of Bhagwathula's case (supra) referred to above. The burden was on the appellants to prove that the lands acquired were fully developed with all amenities like roads, drainage, electricity, communication, etc. As against this, one of the appellants, who examined himself on oath (Exh.18) has specifically admitted thus, "maximum 20% deduction for internal road and open space will have to be allowed. The market value of the land is not less than Rs.100/- per sq. ft. excluding the cost of development of amenities to be provided and excluding the cost of land to be deducted". The same indicates the land was not fully developed for being used as it is for construction purpose. Admittedly, on the date on which it was acquired, it was an agricultural land. True, the appellants did place on record before the reference Court three sale instances and the judgment of reference Court in L.A.R. No. 411 of 1999. The reference Court has rightly appreciated the said evidence. The sale instances pertain to the land, Gut Nos. 1082, 1068 and 1069 (Exh.26 to 28), have rightly been discarded by the trial Court observing the rates granted therein were although Rs.28/-, 20/- and 17/- per sq. ft., those lands were located at interior area. The trial court has rightly observed the claimants to have come with clean hands. The trial court has, however discarded the sale instance dated 11th January, 1996 pertaining to land, Gut No. 1089 (Exh.25), land adjacent to the land acquired, since it was post

publication of the preliminary notification under Section 4 of the Act. Certain dates are very much relevant, and therefore, need to be reproduced below :-

Publication of notification under Section 4	04th January, 1996
Publication of notification under Section 6	13th June, 1996
Award passed	31st October, 1998
Possession taken by government of the land acquired	06th March, 1996

As already observed above, market value of the land to be acquired has to be determinecircumd on the market rate prevailing on the date of publication of notification under Section 4 of the Act.

20. Learned A.G.P. has relied on the judgment of Apex Court in case of ***State of Maharashtra & Ors. Vs. Digamber Bhimashankar Tandale & Ors., 1996 SCC (2) 583***, wherein it has been observed that it is settled law that determination of compensation on square foot basis is illegal, when the land acquired was an agricultural land. Whereas, there are other authorities relied on by learned counsel for the appellants to suggest that if the land is situated in urban area which is under-developed, potency of the land acquired needs to be considered. Learned A.G.P. has also relied on another judgment of the Apex Court, ***Ranvir Singh & Ors. Vs. Union of India AIR 2005 SC 3467***, wherein it has been observed that market price of small piece of land cannot be the basis for determining market value of large stretch of land.

21. In almost all the judgments relied on it has been observed that each case has to be decided on the facts and circumstance and evidence

obtaining therein. The sale instance (Exh.25) relied on by the appellants pertains to sale-deed dated 11th January, 1996 i.e. just seven days after the publication of preliminary notification. Same pertains to a very small piece of land admeasuring 600 sq. ft. Perusal of the sale-deed indicates that even it was a plot not converted into non-agricultural assessment. It has already been observed above that it is surprising that the purchaser paid the vendor entire consideration amount before execution of sale-deed without receiving possession. There are no recitals to indicate as to when the agreement to sale is executed (if any) and the entire sale consideration was paid. It is also not known as to why the purchaser, after having paid the entire consideration amount, did not receive possession of the plot purchased under the sale deed. The recitals in the sale-deed indicate the possession of plot was delivered on the date on which the sale-deed was executed. For all these reasons we are in complete agreement with the trial Court. It rightly discarded the sale instance, although Apex Court in case of Raval Maneklal Motiram (supra) has observed that the sale-deed in proximate to the date of publication of notification or executed little later may be considered provided the villagers were not in know that notification was going to be published and the lands were proposed to the acquired.

22. The appellants have also relied on the judgment in L.A.R. No. 411 of 1999 (Exh.40) wherein compensation was granted @ Rs.46/- per sq. ft. with a rider of deduction of 25% towards development charges. It indicates

the appellants were agreeable for deduction towards development charges. The land in relation to the subject matter of reference i.e. L.A.R. No. 411 of 1999 was somewhat away from the land of the appellants herein. The said land was situated at village Renapur itself. The observations in the judgment of the said reference indicate that the surrounding land which was the subject matter of the said reference has already been developed and the said land was similarly placed with the land of the appellants herein. Still the reference Court has granted compensation @ Rs.46/- per sq. ft. and 25% thereon towards development charges. It was a reference decided on 24th October, 2008. The notification under Section 4 of the Act pertains to the land, reference of which was dated 04th January, 1996 itself. After having considered all the facts and circumstances of the case, the reference Court granted the appellants compensation @ Rs.60/- per sq. ft. minus 20% thereof towards development charges. The same indicates that the reference Court after having considered all the pros and cons and each and every circumstance relied on, granted the appellants higher compensation than the sale instances and the rate granted in L.A.R. No. 411 of 1999. It is reiterated that the reference Court has rightly discarded the sale instance (Exh.25). We are in complete agreement with the reasons given by the trial Court and quantum of compensation awarded to the appellants herein. We do no find any reason to make interference therewith.

INTEREST :-

23. We have closely perused the memo of appeal. No ground has been raised for grant of interest under Sections 28 and 34 of the Act. No such claim has been made before the reference Court as well (Order XLI, Rule 2 of C.P.C.). No submission in that regard was advanced before us during oral submissions. It is only when we perused written submissions, we came across a prayer for grant of such interest. For better appreciation, the operative part of the impugned judgment needs to be reproduced below :-

> *"1. The land acquisition reference bearing No.90/2000 is hereby partly allowed with proportionate costs.*
> *2. The respondents No.1 to 3 are hereby directed to pay the difference amount of the compensation to claimants in L.A.R. No.90/2000 at the rate of Rs.60/- per sq.ft. after deducting market value for development of land to the extent of 20%.*
> *3. The claimants are entitled to receive 30% solatium on the market price, 12% increase from the date of notification u/s.4 i.e. 4/1/1996 to the date of award i.e. 31/10/98.*
> *4. The respondents No.1 to 3 are hereby directed to pay to claimants, the interest at the rate of 9% p.a. from 4/1/1996 for first year and thereafter, at the rate of 15% p.a. till the realization of the entire amount.*
> *5. Calculation sheet will be treated as a part and parcel of this judgment and continuation of this order.*
> *6. The claimants in this reference shall pay deficit Court fees, if any."*

24. Admittedly, possession of the land was taken over post publication of notification under Section 4 of the Act, but before the award was passed. The reference Court granted interest from the date of publication of

notification. The respondent – State did not raise any objection in regard to grant of interest from the date of publication of notification. In our view, the interest ought to have been awarded from the date of taking over possession of the acquired land to the date of payment of actual compensation. Here, it has been granted from publication of notification. Since no objection has been raised in that regard, we are not inclined to upset the award on the ground of granting interest for the period in excess of the period for which the appellants were entitled to. Needless to mention, for raising claim of interest under Sections 28 and 34 of the Act, no permission of this Court was obtained, moreso, when no ground in that regard has been taken in the appeal memo and oral submissions as well (Order 41, Rule 2 of C.P.C.).

25. For all the aforesaid reasons, we find no reason to interfere with the impugned award. Both the appeals, therefore, fail. Same stand dismissed. Civil application stands disposed of accordingly. The bank guaranty submitted by the appellant while receiving the amount of compensation pursuant to the order of this Court, stands discharged.

(NEERAJ P. DHOTE, J.) **(R.G. AVACHAT, J.)**

SSD