IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 FIRST APPEAL NO. 870 OF 2014

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 863 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 864 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 865 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 866 OF 2014

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 867 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND

FIRST APPEAL NO. 868 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 869 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 871 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 872 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 873 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 874 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 875 OF 2014

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 1331 OF 2018

Arjun Nana Dhage (Died) Through L.Rs. Vilas Arjun Dhageand Another

VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1332 OF 2018

Dattatraya Rambhau Mhaske
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1333 OF 2018

Dhondiba Daulat Mhaske (Died) Through L.Rs. Daulat Dhondiba Mhaske
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1334 OF 2018

Raju Bahirnath Dhage And Another
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1335 OF 2018

Babasaheb Vithoba Dusunge
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 2403 OF 2014

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 2923 OF 2015

The Executive Director, Krishna Khore Mahamandal
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 2924 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar

VERSUS
The State Of Maharashtra And Others

AND
FIRST APPEAL NO. 4437 OF 2023

Sushila Namdeo Kale And Another
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1945 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1946 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1947 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1948 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1949 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1950 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1951 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1953 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1954 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

AND
FIRST APPEAL NO. 1955 OF 2015

The Executive Director, Krishna Khore Mahamandal, Minor Irrigation Division-1, Ahmednagar
VERSUS
The State Of Maharashtra And Another

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Mr. G.B. Rajale, D.R. Jethliya, Advocate for Acquiring Body
Mr. D.A. Bide, Advocate h/f Mr. M.R. Khutwad, D.R. Jayabhar, R.K. Temkar N.C. Garud and N.B. Narwade, P.V. Barde, Advocates for respective Claimants
Mr. A.M. Phule, AGP for State

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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 23 OCTOBER, 2026

PER COURT :

1. The following matters are not on board, upon mentioning, taken on board.

FA/1945/2015, FA/1946/2015, FA/1947/2015, FA/1945/2015, FA/1948/2015, FA/1949/2015, FA/1950/2015, FA/1951/2015, FA/1953/2015, FA/1954/2015, FA/1945/2015, FA/1954/2015.

2. Heard Mr. G.B. Rajale and Mr. D.R. Jethliya, learned Advocates for the acquiring body; Mr. D.A. Bide, learned Advocate holding for Mr. M.R. Khutwad, and Mr. D.R. Jayabhar, Mr. R.K. Temkar, Mr. N.C. Garud, Mr. N.B. Narwade and Mr. P.V. Barde, learned Advocates for the respective claimants; and Mr. A.M. Phule, learned AGP for the State. In some matters, Mr. Mukul Kulkarni had earlier appeared on behalf of the acquiring body. As it is informed that now Mr. Mukul Kulkarni is not on the panel. Therefore, this Court is requested to Mr. Rajale to appear in the remaining matters also. Mr. Rajale graciously accepted the request and worked out the matters.

3. These connected appeals arise from the common Judgments and Awards dated 29.03.2012 and 28.03.2012 passed by the learned 2nd Joint Civil Judge, Senior Division, Ahmednagar, in the Land Acquisition References mentioned in the chart given below. The acquiring body challenges the enhancement granted towards fruit-bearing trees, whereas

the claimant-appellants seek further enhancement of compensation for their acquired lands. The particulars of the appeals, Land Acquisition References, survey/gat numbers and areas acquired, as available from the record, are set out below.

LANDS ACQUIRED FROM VILLAGE TAKLI KAZI — AWARD DATED 29.03.2012

Sr. No.	FAs filed by Acquiring Body	FAs filed by the Claimants	LAR No.	Gat No(s).	Area Acquired
1	870 of 2014	1331 of 2018	248/2000	207 207	71 R 16 R
2	863 of 2014	1332 of 2018	246/2000	217 219	1 H 15 R 14 R
3	864 of 2014	—	210/2000	203	0.01 R
4	865 of 2014	—	247/2000	214	87 R
5	866 of 2014	1335 of 2018	249/2000	206	1 H 44 R
6	867 of 2014	—	218/2000	210 212	87 R 0.02 R
7	868 of 2014	4437 of 2023	211/2000	208 209 213 214	05.5 R 1 H 53.5 R 0.43 R 0.40 R
8	869 of 2014	1334 of 2018	216/2000	208	0.055 R
9	871 of 2014	—	202/2000	220	0.41 R
10	872 of 2014	—	212/2000	215	0.59 R
11	873 of 2014	—	252/2000	216	1 H 68 R
12	874 of 2014	—	207/2000	127	2 H 12 R
13	875 of 2014	—	215/2000	204	0.30 R
14	2403 of 2014	—	251/2000	220	0.41 R
15	2923 of 2015	1333 of 2018	250/2000	218	1 H 12 R
16	2924/2015	—	217/2000	53 54 55 58 60 63	0.50 R 0.02 R 0.01 R 0.64 R 0.02 R 0.05.5 R

LANDS ACQUIRED FROM VILLAGE NARAYANDOH — AWARD DATED 28.03.2012

Sr. No.	FAs filed by Acquiring Body	FAs filed by the Claimants	LAR No.	Gat No(s).	Area Acquired
1	1945/2015	—	233/2000	113 (1/5 share)	62 R 04 R (pk)
2	1946/2015	—	224/2000	122/2	1 H 169 R
3	1947/2015	—	229/2000	111	49 R
4	1948/2015	—	220/2000	488	23 R
5	1949/2015	—	225/2000	112	43 R
6	1950/2015	—	259/2000	52	24 R
7	1951/2015	—	219/2000	51 55 54 60	1 H 75 R 02 R 11 R 02 R
8	1953/2015	—	227/2000	57	78 R
9	1954/2015	—	222/2000	56	70 R
10	1955/2015	—	226/2000	120	78 R

4. The notification under Section 4 of the Land Acquisition Act, 1894 (for short, “the Act”) was published on 24.07.1997. The Special Land Acquisition Officer (SLAO) made the award under Section 11 of the Act on 07.07.1999. Compensation was determined at Rs.470/- per R and Rs.1,250/- per R, as applicable, in addition to compensation for fruit-bearing trees. The claimants accepted the compensation under protest and sought references under Section 18 of the Act, contending that the compensation was inadequate.

5. Before the learned Reference Court, the claimants relied upon sale-deed material and private valuation reports at Exhibits 11/1, 11/2, 15/1, 12/2, 17/1, 17/2, 16/1, 16/2, 13/1, 13/2, 19/1, 19/2, 12/1, 18/1, 18/2 and 16/1 to 16/3. The learned Reference Court also referred to books

authored by Prof. Prakash P. Deshmukh, Mr. A.V. Patil and Mr. D.P. Bore. By the impugned awards, it enhanced compensation for the acquired lands and the fruit-bearing trees. The acquiring body challenges the enhancement granted for the trees, while the claimant-appellants seek further enhancement of compensation for their lands.

6. The learned Reference Court awarded compensation at Rs.1,500/- per R for jirayat land and Rs.2,250/- per R for seasonally irrigated land. The SLAO had fixed the rates at Rs.470/- per R and Rs.1,250/- per R, as applicable. Thus, the enhancement in the land-compensation component is within four times the respective rates determined by the SLAO. Having regard to the State Government policy that awards involving enhancement of compensation up to four times the rates granted by the SLAO are not to be challenged, no interference with the land rates is warranted at the instance of the acquiring body on that ground. The dispute requiring examination principally concerns the enhancement granted for fruit-bearing trees and the further enhancement sought by the claimants.

7. The acquiring body has assailed the enhancement granted by the learned Reference Court towards fruit-bearing trees. The claimants, on the other hand, seek further compensation for their acquired lands. Their contention is that the SLAO treated the acquired lands as dry lands, and that the compensation determined for the lands therefore requires enhancement in the claimants' appeals.

8. Learned counsel Mr. G.B. Rajale and Mr. D.R. Jethliya, appearing for the acquiring body, submit that although the notification under Section 4 of the Land Acquisition Act, 1894, was published on 24.07.1997, possession of the acquired lands had, in fact, been taken with the consent of the claimants on 10.01.1994. They submit that a panchanama was prepared at the time of taking possession and that construction of the project had also commenced in the year 1994 itself. Subsequently, as some of the claimants raised objections regarding the number of trees recorded in the panchanama prepared in the year 1994, another panchanama was drawn in their presence. On the basis of the two panchanamas, a valuation report was obtained from the Government official, and the number of trees and their valuation, as reflected in the relevant reports, were considered by the SLAO while determining compensation.

9. Learned counsel for the acquiring body submit that the SLAO determined compensation towards the fruit-bearing trees on the basis of the valuation furnished by the Government official and that the compensation so awarded is just, proper and reasonable. They further submits that the claimants, before the learned Reference Court, relied upon the reports prepared by the private valuer, Mr. Bhujbal, who was examined at Exhibit 8. As per the said reports, the valuer claimed to have visited the acquired lands on 01.06.1996 and recorded the number and valuation of trees situated in Gat Nos. 207, 214, 215, 217, 204, 210, 209, 216, 218, 203, 206, 220, 53, 55

and 60. Mr. Rajale submits that, considering the total acquired area of 58 hectares and 56 R, it is highly improbable that the valuer could have inspected the entire acquired area and prepared the valuation report.

10. Learned counsel Mr. Rajale further submits that the private valuation reports are not reliable and appear to have been prepared to secure enhanced compensation towards the fruit-bearing trees. Inviting attention to the reports, he submits that the prescribed formats appear to have been completed by filling in the blank spaces, without any supporting rough notes or contemporaneous record of the alleged inspection. He further submits that the reports do not disclose the methodology adopted for determining the valuation of the trees. Neither any Government Resolution supporting the rates adopted nor any rate chart issued by the A.P.M.C. was produced along with the reports. He, therefore, contends that the learned Reference Court ought not to have relied upon such reports to enhance the compensation awarded by the SLAO.

11. Learned counsel Mr. Rajale further submits that the learned Reference Court was not justified in relying upon the contents of textbooks to determine the age, height and nature of the trees or their market value, particularly when the compensation had already been determined by the SLAO on the basis of the valuation furnished by the Government official. He submits that the enhancement ought to have been determined on the basis

of reliable evidence adduced by the claimants and not merely on the strength of the private valuation reports read with the contents of textbooks. On these grounds, learned counsel for the acquiring body prays that the appeals filed by it be allowed.

12. Per contra, learned counsel for the claimants submit that the learned Reference Court did not accept the private valuation reports in their entirety. According to them, the reports and reference books were considered for assessing the age of the trees and the prevailing market rates, together with the other material on record. They submit that the number of trees recorded by the SLAO is not in dispute and corresponds with the number stated in the private reports. They further contend that possession in 1994 was taken for the purpose of carrying out the project, but the actual work commenced in 1997, and rely upon the panchanama prepared in 1997.

13. Learned counsel Mr. Barde, taking the Court through the record and proceedings in First Appeal No.1945 of 2015, submits that the rate chart of the Ahmednagar Agricultural Produce Market Committee (A.P.M.C.) was also placed before the learned Reference Court. He submits that the number of trees otherwise is not in dispute and that the enhancement granted by the learned Reference Court is reasonable, particularly as it did not grant 100% enhancement.

14. Learned counsel Mr. Bide holding for learned counsel Mr. M.R. Khutwad for the claimants submits that the valuation reports were not relied upon for every aspect of the assessment. As regards Gat No.209, he points out that, out of 400 pomegranate trees stated to have been acquired, 200 were treated as saplings and compensation of Rs.7,000/- was awarded for those 200 saplings.

15. As regards First Appeal Nos. 1331 of 2018, 1332 of 2018, 1333 of 2018, 1334 of 2018 and 1335 of 2018, learned counsel Mr. Bide submits that the claimants had placed on record, along with a list of documents, a copy of the sale deed dated 23.01.1995 relating to 40 R of land in the acquired village, sold for a consideration of Rs.1,00,000/-. He submits that the sale instance related to dry land and ought to have been considered by the learned Reference Court. Instead, the learned Reference Court relied upon the rate fixed in another Land Acquisition Reference. On the basis of the sale deed, he submits that the claimants are entitled to compensation at Rs.5,000/- per R by treating the acquired lands as irrigated lands. He further submits that the lands from Gat Nos.206, 216 and 218 were treated as irrigated by the SLAO, whereas, in respect of other two Gat Nos. 207 and 209, compensation was awarded for the well and the lands were treated as dry lands, He therefore seeks the irrigated-land rate in the aforesaid appeals.

16. Learned counsel Mr. D.R. Jayabhar, Mr. R.K. Temkar, Mr. N.C. Garud and Mr. N.B. Narwade, for the respective claimants supoort the impugned

judgments and awards by contending that the learned Reference Court has properly appreciated the evidence on record and thereby enhancing the compensation towards the land and trees and pray to dismiss the appeals filed by the acquiring body.

17. Learned AGP Mr. Phule, appearing for the State, submits that the learned Reference Court granted interest under Section 28 of the Act from the date of publication of the notification under Section 4. He contends that this is contrary to the decision of this Court in ***State of Maharashtra v. Ramesh Tukaram Meshram and Others, reported in 2018 (1) ALL MR 645***, and submits that the impugned awards require modification to that extent.

18. I have considered the submissions advanced on behalf of the respective parties and, with their assistance, have perused the record and proceedings, the impugned Judgments and Awards and the evidence referred to therein. The perusal of impugned awards reflect the enhancement granted by the learned Reference Court, which is reproduced herein below:

ENHANCEMENT IN RESPECT OF TREES ACQUIRED FROM VILLAGE TAKLI KAZI

L.R.A. No.	Land Gat No.	Nature of tree	No. of trees	Compensation awarded by S.L.A.O. (Rs.)	Compensation awarded by Court (Rs.)
248/2000	207	Pomegranate	312	363066	1248000
		Mango	10	2220	-
		Tamarind	7	666	-
		Ber	3	1255	9450
202/2000	220	Mango	6	972	-
207/2000	127	Orange	108	179093	604800

L.R.A. No.	Land Gat No.	Nature of tree	No. of trees	Compensation awarded by S.L.A.O. (Rs.)	Compensation awarded by Court (Rs.)
		Guava	1	2448	-
		Ber	1	56	-
		Custard apple	1	444	3000
		Drumstick	4	671	-
210/2000	203	Mango	3	39598	202500
211/2000	214	Mango	36	2781	-
		Ber	5	2497	15750
		Tamarind	1	132	-
212/2000	215	Ber	2	112	-
215/2000	204	Mango	2	22567	135000
		Custard apple	4	144	-
		Tamarind	5	34189	188750
		Jambhul	1	3188	10000
216/2000	209	Pomegranate	200	7000	-
		Pomegranate	200	219582	800000
		Ber	8	368	-
217/2000	53	Tamarind	3	20506	113250
		Tamarind	5	960	-
		Ber	6	2094	18900
		Ber	3	1515	9450
	58	Mango	3	31525	202500
		Tamarind	6	40752	226500
		Tamarind	7	1344	-
		Tamarind	1	8676	37750
		Ber	1	445	3150
		Custard apple	4	1725	12000
	60	Mango	1	12321	67500
218/2000	210	Mango	5	63442	337500
		Mango	2	144	-
		Mango	2	22898	135000
		Ber	1	463	3150
		Ber	4	1473	12600
		Drumstick	1	16	-
		Custard apple	6	216	-
		Tamarind	2	204	-
246/2000	217	Mango	1	13199	67500
		Pomegranate	307	357249	1228000
		Ber	12	432	-
247/2000	214	Mango	69	6834	-
		Ber	5	Considered	In LAR 211/2000
249/2000	206	Orange	160	297674	896000
250/2000	218	Orange	20	35587	112000
		Drumstick	2	292	-

L.R.A. No.	Land Gat No.	Nature of tree	No. of trees	Compensation awarded by S.L.A.O. (Rs.)	Compensation awarded by Court (Rs.)
251/2000	220	Mango	6	Considered	In LAR 202/0000
		Ber	4	1551	12600
252/2000	216	Pomegranate	492	547796	1968000
		Guava	8	20035	-
		Mango	4	590	-
		Drumstick	2	1020	-
		Ber	19	8387	59850

ENHANCEMENT IN RESPECT OF TREES ACQUIRED FROM VILLAGE NARAYANDOH

L.R.A. No.	Land Gat No.	Nature of tree	No. of trees	Compensation awarded by S.L.A.O. (Rs.)	Compensation awarded by Court (Rs.)
233/2000	113 out of 1/5 share	Mango	3	41794	202500
		Ber	6	3576	18900
		Guava	1	2189	-
		Custard apple	1	485	3000
		Tamarind	1	7181	37750
219/2000	51	Ber	44	18476	138600
		Custard apple	4	1972	12000
220/2000	488	Tamarind	1	6690	37750
		Mango	1	10837	67500
221/2000	121	Ber	7	3055	22050
222/2000	56	Mango	1	11594	67500
		Pomegranate	288	348594	1152000
		Ber	2	818	6300
		Custard apple	2	864	6000
224/2000	122/2	Mango	1	11009	67500
		Ber	3	1371	9450
225/2000	112	Custard apple	16	7763	48000
		Pomegranate	7	3954	28000
		Tamarind	18	101913	679500
		Ber	17	6463	53550
226/2000	120	Tamarind	1	6759	37750
		Ber	4	2697	12600
227/2000	57	Mango	6	81593	405000
		Tamarind	6	40309	226500
		Ber	3	8610	9450
		Ber	1	2759	3150
	59	Ber	1	467	3150
		Ber	1	630	3150
229/2000	111	Custard apple	15	6783	45000

L.R.A. No.	Land Gat No.	Nature of tree	No. of trees	Compensation awarded by S.L.A.O. (Rs.)	Compensation awarded by Court (Rs.)
		Ber	11	5902	34650
242/2000	120	Ber	4	Already Considered in LAR No.226/22000	
		Tamarind	1		
	121/1	Ber	9	4139	28350
		Tamarind	10	52652	377500
		Pomegranate	2	1664	8000
259/2000	52	Ber	2	829	6300

19. The record indicates that possession of the acquired lands was taken on 10.01.1994. The claimants also accepted in their evidence that possession had been taken in 1994. The SLAO awarded compensation for the trees on the basis of valuation furnished by the Government authority. The principal question is not the number of trees, but whether the material produced before the learned Reference Court justified the higher valuation adopted by it. In considering that question, the reliability of the private valuer's inspection, the basis of the rates used by him and the evidence supporting the assessed age and yield of the trees assume importance.

20. The private valuer, Mr. Bhujbal (Exhibit 8), stated that he had visited the acquired lands on 01.06.1997. His reports contain the particulars of the trees and the values assessed, but do not set out rough contemporaneous field notes or explain in sufficient detail the method by which the age, yield and market value of each category of tree were determined, reports were prepared in a prescribed format with the relevant spaces filled in. The absence of supporting material is material because the reports were relied upon to support a substantial enhancement over the official valuation.

21. The relevant portion of paragraph No. 2 of the private valuer's deposition reads as follows:

> *"(2) As per my report I visited to site on 1" June, 1997. It is true to say that, there is no signatures of Village Talathi on panchnama prepared by me. Copy supplied to Non-Applicant is the xerox copy obtained from original. Panchnama produced in Land Reference Appln. No.259/2000 is shown to me, it does not bears signatures of any panch witnesses. It is true to say that, applicants were shown the site to me. It is not true to say that, at the time of my visit to the site, not a single tree was standing in the lands of the applicants. I have seen the valuation report of Govt. Valuer. It is true to say that, only on the point of "yielding" & "market rate" there is difference between my Valuation Report and report of Govt. Valuer. It is true to say that, I have not produced any correspondence between Market Committee and me. I have not claimed the market rates from Market committee. As per my direction, all the applicants were received the market rates from the Market committee. All the applicants submitted before me the "Rate Chart" issued by the Market committee. I have not produced the "market rate chart". I again say that I have not produced the copy of Market rate chart. If the correspondence with the agriculturist is available with the applicants I am ready to produce it on record."*

22. These admissions bear directly upon the evidentiary value of the private valuation reports. The reports do not establish that the rates stated therein were independently verified with the A.P.M.C., nor do they sufficiently explain the difference in yield and market rates from the official valuation.

23. Further, the private valuer claimed to have inspected the entire acquired area, admeasuring 58 hectares and 60 R, on a single day. Having regard to the extent of the acquired area, it is difficult to accept that the entire area could have been inspected in a single day. The valuer claimed to

have inspected the acquired lands in the year 1997; however, the copies of the reports were supplied to the claimants only in the year 2010. The evidence before the learned Reference Court commenced in the year 2010, and the valuer was examined in the year 2011. These circumstances, considered cumulatively, create serious doubt about the claim that the valuer had actually inspected the entire acquired area and indicate that the reports may have been prepared subsequently for the purpose of the proceedings before the learned Reference Court. The reports, therefore, do not provide a reliable basis for displacing the valuation determined by the SLAO.

24. The learned Reference Court recorded that possession of the acquired lands had been taken in the year 1994, a fact which was also admitted by the claimants in their examination-in-chief. The private valuation reports, however, record the age of the trees as ranging from three to five years, whereas the private valuer claimed to have inspected the acquired lands on 01.06.1997. In view of the admitted date of possession, these age assessments required careful scrutiny, particularly with regard to the trees acquired from Gat No. 209. In respect of the said Gat number, 400 pomegranate trees were stated to have been acquired, out of which 200 were treated by the learned Reference Court as saplings, for which compensation of Rs.7,000/- was awarded. In these circumstances, the possibility cannot be ruled out that some of the trees were planted after

possession was taken in January 1994 and before the award was declared, with a view to claiming higher compensation.

25. The learned Reference Court ought to have examined whether the trees were in existence when possession was taken and whether they were saplings or grown-up trees at the material time. However, it has not adequately explained the basis for accepting the higher valuation of the remaining trees on the strength of the private valuation reports and general reference books.

26. The reference books relied upon by the learned Reference Court may provide general information about the nature, age or yield of trees. They cannot, however, substitute for reliable evidence connecting the rates and yield stated in them with the trees actually assessed in these cases. On an overall consideration of the official valuation, the admissions of the private valuer and the deficiencies in the reports, the enhancement granted by the learned Reference Court towards fruit-bearing trees is not supported by sufficiently reliable evidence.

27. On perusal of individual report placed in each Land References, it reveals that the acquired trees in all aforesaid gat numbers have suffered the same fate. The learned Reference Court has utterly failed to give findings as to why it relied upon the private valuers report and reference books and enhanced the compensation to an exorbitant extent. Once the learned

Reference Court enhanced the compensation towards the trees to such an extent, it ought to have justified such enhancement by giving appropriate findings. Therefore, the enhancement towards the trees cannot be sustained.

28. The claimants' prayer for further enhancement of compensation for the acquired lands rests upon the sale deed dated 23.01.1995. Although a copy of that document was placed along with the list of documents, the sale deed was not exhibited before the learned Reference Court. Its contents, therefore, cannot be treated as substantive evidence of the market value in these appeals. No application has been made before this Court to lead additional evidence by bringing that sale deed on record in accordance with law.

29. The claimants also contend that certain lands ought to have been treated as irrigated rather than dry or seasonally irrigated lands and seek a rate of Rs.5,000/- per R. The rate claimed is sought to be supported by the aforesaid sale deed, which cannot be relied upon for the reasons stated above. The learned Reference Court adopted the rates determined in another Land Acquisition Reference arising from the same project and the same notification. In the absence of an admissible sale instance or other sufficient material demonstrating that the rates adopted in the connected reference were inadequate for the lands in question, no case is made out for further enhancement.

30. As regards interest under Section 28 of the Act, this Court in ***State of Maharashtra v. Ramesh Tukaram Meshram and Others, reported in 2018 (1) ALL MR 645***, has held that Sections 28 and 34 are *pari materia* and that, where possession is taken before publication of the notification under Section 4, interest is payable from the date of the award and not from the earlier date of possession or notification. In the present matters, possession was taken before publication of the notification under Section 4, and the SLAO made the award under Section 11 on 07.07.1999. The impugned awards must accordingly be modified to provide for interest under Section 28 in accordance with the said decision, with reference to 07.07.1999 as the date of the award.

31. In view of the above discussion, the impugned Judgments and Awards deserve to be modified by setting aside the enhancement granted by the learned Reference Court towards the fruit-bearing trees and by modifying the directions regarding interest, while maintaining the compensation awarded in respect of the acquired lands. Hence, the following order:

O R D E R

(i) The First Appeals filed by the claimants are dismissed. The First Appeals filed by the acquiring body are partly allowed.

(ii) The common Judgments and Awards dated 29.03.2012 and 28.03.2012 passed by the learned 2nd Joint Civil Judge, Senior Division, Ahmednagar, in the respective Land Acquisition References are modified to the extent indicated below.

(iii) The enhancement granted by the learned Reference Court towards compensation for fruit-bearing trees is quashed and set aside. The compensation awarded by the SLAO towards the trees is maintained.

(iv) Interest under Section 28 of the Act shall be payable in accordance with the decision of this Court in ***State of Maharashtra v. Ramesh Tukaram Meshram and Others, reported in 2018 (1) ALL MR 645***, with reference to 07.07.1999, the date of the award under Section 11 of the Act, and not from the date of publication of the notification under Section 4 of the Act.

(v) The compensation awarded by the learned Reference Court in respect of the acquired lands is maintained.

(vi) The office shall calculate the amount payable to or recoverable from the respective claimants under the modified awards, after giving due adjustment to the amounts already paid and/or withdrawn by them.

(vii) If, upon such calculation and adjustment, any excess amount is found to have been received by any claimant towards compensation for fruit-bearing trees, the concerned claimant shall refund the excess amount, together with applicable interest, within ten weeks from today.

(viii) If the concerned claimant fails to refund the excess amount within ten weeks from today, the Collector, Ahmednagar, shall initiate appropriate proceedings for recovery of the excess amount, together with applicable interest, in accordance with law, and submit a compliance report to this Court regarding the action taken.

(ix) Conversely, if any amount remains payable to the claimants after such calculation and adjustment, the same shall be paid in accordance with law.

(x) If upon due adjustment, the claimants deposit such amounts, if any, the acquiring body is permitted to withdraw the same.

(xi) Modified awards be drawn accordingly.

(xii) Pending Civil Applications, if any, stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE

S P Rane