



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1372 OF 2024

Vidharbha Irrigation Development Corporation

Vs.

Shalikram Tryambak Mahalle (dead) through Lrs. And others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms. Mallika Babhulkar h/f. Mr. M. A. Kadu, Advocate for petitioner.
Mr. Parth Malviya, Advocate for respondent nos. 1 and 2.
Mr. S. B. Bissa, AGP for respondent nos. 3 and 4/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 27.01.2026

Heard.

2. The petition challenges the order dated 02.12.2023 passed by the Civil Judge Senior Division, Akola (Executing Court) below Exh.22 in Special Darkhast No. 10/2020 rejecting the objections filed by the petitioner who objected to the calculation of interest made by the respondents on the award.

3. The land of respondent nos. 1 and 2 was acquired by the petitioner and an award came to be passed. On failure to pay the amount of the award, respondent nos. 1 and 2 filed an execution case before the Executing Court. An objection was raised by the petitioner to the calculation of interest on the compensation, more particularly, the interest on the

amount of solatium on the compensation towards a well constructed in the said land. The said objection was rejected by the Executive Court by the impugned order.

4. Heard learned counsel for the respective parties and perused the record.

5. The contention is that, the interest on solatium of land is permissible; and the land includes benefits which arise out of it, things attached to the earth or permanently fastened to anything attached to earth.

6. In the case of ***Chaturbhuj Pande and others Vs. Collector, Raigarh [AIR 1969 SC 255]***, it has been held by Hon'ble Supreme Court in para no. 8 as under:-

"8. The High Court in our opinion was wrong in disallowing the statutory allowance permitted by Section 23(2) over the value of the trees. The High Court erred in thinking that the value of the trees falls under the secondly clause of Section 23 (1). The first clause of Section 23 provides for determining the market value of the land acquired. Section 3(a) prescribes that 'the expression 'land' includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth". Therefore the trees that were standing in the land were a component part of the land acquired. The High Court failed to notice that what was acquired are not the trees but the land as such. The value of the trees was ascertained only for the purpose of fixing the market value of the land. On the value of the land as determined, the court was bound to allow the 15 per cent allowance provided by Section 23(2) of the Act."

7. Needless to mention that in the decision of five Judges Bench in the case of ***Sunder Vs. Union of India [(2001) 7 SCC 211]***, it has been held that the interest is applicable on the entire amount of

compensation including market value, solatium and any additional sum. Therefore, interest is applicable on the entire aggregate amount and not just on market value. The Bench further clarified that the solatium is a part of the compensation package and not just an add-on hence, the interest under Sections 28 and 34 of the Land Acquisition Act, 1894 is to be paid on solatium also. Hence, no perversity is found in the impugned order of the Executing Court rejecting the objections raised by the petitioner. Hence, the petition is devoid of merit.

8. Sofar as, the contention of the petitioner that the respondent has calculated interest on the interest and this point has not been considered by the Executing Court is concerned, the petitioner can approach the Executing Court in this regard.

9. Accordingly, the petition is dismissed.

(M. W. CHANDWANI, J.)