

CNR No.MHLA-05-000753-2018



Presented on 19.10.2018
Registered on 19.10.2018
Decided on 30.01.2020
Duration 01 Y. 03 M.11 D.

(Exh.No.29)

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, AHMEDPUR
(Presided over by A.R.Surve)

1) L.A.R.No.500/2018

CNR No.MHLA-05-000753-2018

Keshav Gangaram Kendre,
Age :- 51 years. Occ.- Agriculturist,
R/o.Kalegaon, Tq.Ahmedpur,
Dist.Latur.

Applicant

Versus

- 1) State of Maharashtra,
Through the District Collector,
Latur.
- 2) The Executive Engineer,
Minor Irrigation, Local Sector,
Latur.

Non-applicants

2) L.A.R.No.501/2018

CNR No.MHLA-05-000754-2018

Pundalik Ramji Kendre,
Age :-69 years. Occ.- Agriculturist,
R/o.Kalegaon, Tq.Ahmedpur,
Dist.Latur.

Applicant

Versus

- 1) State of Maharashtra,
Through the District Collector,
Latur.

- 2) The Executive Engineer,
Minor Irrigation, Local Sector,
Latur.

Non-applicants

- 3) **L.A.R.No.502/2018**
CNR No.MHLA-05-000755-2018

Sambaji Dhariba Kendre (Died)
Through legal Heir
Laxman Sambaji Kendre
Age:- 56 yrs., Occu.- Agriculturist,
R/o.Kalegaon, Tq.Ahmedpur,
Dist.Latur.

Applicant

Versus

- 1) State of Maharashtra,
Through the District Collector, Latur.
2) The Executive Engineer,
Minor Irrigation, Local Sector,
Latur.

Non-applicants

- 4) **L.A.R.No.503/2018**
CNR No.MHLA-05-000756-2018

Gopinath Gangaram Kendre,
Age:- 60 years, Occu.- Agriculturist,
R/o.Kalegaon, Tq.Ahmedpur,
Dist.Latur.

Applicant

Versus

- 1) State of Maharashtra,
Through the District Collector, Latur.
2) The Executive Engineer,
Minor Irrigation, Local Sector,
Latur.

Non-applicants

Adv.Shri.S.S.Kendre for the applicants.
Adv.Shri.M.K.Patil for the non-applicants.

J U D G M E N T

(Delivered on this day of 30th January, 2020)

This references are under Section 18 of the Land Acquisition Act (hereinafter referred as L.A.Act.) for the enhancement of compensation.

2) My predecessor has passed the Order below Exh.9 and clubbed together all these references as common Award be passed in respect of all the acquired lands involved in these references.

3) The lands of the applicants have been acquired by the State for the Kalegaonwadi Percolation Tank no.2. The applicants lands are situated at Kalegaon, Tq.Ahmedpur, Dist.Latur. The lands of the applicants which were acquired for the above project are shown in the tabular form as under :

Sr. No.	L.A.R. No.	Applicants Name	Gat No.	Total Acquired Land
1.	500/18	Keshav Gangaram Kendre	20	Adm.(14 R.)+(12 R.) = (26 R.)
2.	501/18	Pundalik Ramji Kendre	20	Adm.(45 R.)+(11 R.) = (56 R.)
3.	502/18	Sambaji Dhariba Kendre (Died) Through Legal Heir Laxman Sambaji Kendre	20	Adm.37 R.
4.	503/18	Gopinath Gangaram Kendra	20	Adm.(11 R.)+(40 R.) = (51 R.)

4) The applicants were the owners and possessors of their respective lands in the Gat no.20 of village Kalegaon, Tq.Ahmedpur, Dist.Latur. The above lands of the applicants were acquired by the State Government of Maharashtra for the construction of Kalegaonwadi Percolation Tank no.2. The above mentioned lands are hereinafter referred as "Acquired lands". The publication of notification under Section 4 of the L.A.Act was made on 21/12/2004. The acquiring body has taken the possession of the acquired lands. The applicants have dissatisfied with the rate of the compensation, so they have filed these references for the enhancement of compensation.

5) The acquired lands were of good quality for plotting. In the acquired lands applicants were taking Kharip crops i.e Cotton, Soyabin, Tur, Udid, Mug, Sunflower, Wheat, Gram, Badijowar, Kardi and Groundnut. The applicants are used to get the yearly income of Rs.80,000/- per acre from the said lands. The village Kalegaon is 2 kms away from the Ahmedpur taluka. The village Kalegaon is a developing village and the Education, Electricity, Banking, Water supply and Medical facilities are available in the said village. The acquisition of lands in taluka for the storage tanks, for the irrigation projects and for the percolation tanks are in existence in the vicinity of village Kalegaon. The big river is adjacent to the village and connected with State Road, therefore, the project affected persons and the businessman from taluka used

to purchase the lands from village Kalegaon and its surrounding area as it is convenient for them.

6) The Special Land Acquisition Officer has awarded the compensation for the acquired lands on the basis of land revenue assessment which was fixed prior to 100 years by ignoring the developments of the lands, irrigation facilities and the irrigation projects which were surrounded in the said area. The applicants have filed the statement of claim in response to the notice under Section 9 of the Land Acquisition Act, issued by the Special Land Acquisition Officer and claimed the compensation for their acquired lands at the rate of Rs.500/- per Sq.feet with all other benefits. But, the Special Land Acquisition Officer has not considered the claim of the applicants and awarded the inadequate compensation of Rs.750/- per R. prior to the initiation of the acquisition proceedings in the vicinity of village Kalegaon the market rate of the acquired lands was of Rs.500/- per Sq.feet. Therefore, the applicants are praying for the enhanced compensation at the rate of Rs.500/- per Sq.feet alongwith crop compensation at the rate of Rs.10,000/- per R.s

7) The non-applicants have filed their Written Statement (Exh.7) and they have denied the claims and grounds raised in these references by the applicants. They have contended that, the compensation determined by the Special

Land Acquisition Officer was correct and same was arrived after considering all other relevant factors like past sale-instances, quality and situation of land etc. These references are beyond the period of limitation. While receiving the compensation the applicants have not recorded their protest in writing before the Special Land Acquisition Officer. No substantial evidence or material are produced during the acquisition proceeding to support their claims of the enhancement. Therefore, the applicants cannot raise any grievance at this stage and their references are liable to be rejected.

8) My learned Predecessor has framed the issues below Exh.8, same are reproduced with my findings thereon for the reasons given as below :-

S.N.	Issues	Findings
1)	Do the applicants prove that, the compensation granted by the Special Land Acquisition Officer was inadequate ?	-- Affirmative.
2)	Do the applicants prove that, at the time of the publication of notice u/s.4 of the Land Acquisition Act what was the market price of the acquired land ?	-- Partly Affirmative.
3)	Do the applicants prove that, they are entitled to claim the enhanced compensation amount ?	-- Affirmative.
4)	What order and decree ?	-- References are partly allowed.

REASONS

9) Applicant has adduced his evidence at (Exh.11). He has relied on the Award dated 12/10/2010 (Exh.14), 'E' Statement (Exh.15), Notice under Section 12(2) of Land Acquisition Act (Exh.16) and the certified copies of the sale deeds dated 15/04/2004 (Exh.17) and dated 27/07/2004 (Exh.18). The copies of 7/12 extracts of Gat no.20/4/1 at (Exh.23), Gat no.20/3 at (Exh.24) and Gat no.20/1/1 at (Exh.25).The applicants have closed their evidence vide Exh.19.

10) Non-applicants have closed their evidence vide Exh.20.

11) Adv.Shri.S.S.Kendre for the applicants has argued that, the applicants are the owners and possessors of the Gut no.20 of their respective lands of village Kalegaon which were acquired by the State for the construction of Kalegaonwadi Percolation Tank no.2. The Special Land Acquisition Officer has passed the final Award on 12.10.2010 in File No.2003/LNQ/CR-67. He has further argued that, the agricultural potentiality of the lands in question as well as the fact that, the adjoining areas of the lands of the applicants being sold for the much higher values and the lands are nearer to Ahmedpur and this fact was not considered by the Special Land Acquisition Officer. The market rate of the acquired lands during the relevant period was Rs.500/- per Sq.feet. But this

fact was also not considered by the Special Land Acquisition Officer.

12) He has further argued that, as per the sale-deeds dated 15.04.2004 and 27.07.2004 of Ahmedpur, Tq.Ahmedpur, Dist.Latur the applicants are entitled to get the compensation at the rate of Rs.500/- per Sq.feet. because their lands are nearer to the lands mentioned in the said sale deeds. The applicants have also filed the taluka map of Ahmedpur from which it clears that, village Kalegaon is nearer to the taluka Ahmedpur. He has further argued that, the applicants have proved that, the Special Land Acquisition Officer has not considered all the factors at the time of the acquisition of the acquired lands. He has further prayed that, the applicants are entitled to get the enhance compensation amount at the rate of Rs.500/- per Sq.feet. of the acquired lands with other reliefs.

13) Adv.Shri.M.K.Patil for the non-applicants has argued that, the compensation determined is just and proper and same is fixed after considering all the relevant factors likes situation, potentiality and the past sale-instances. While receiving the compensation the applicants have not recorded their protest in writing. The applicants have not filed the substantial evidence and material during the acquisition proceeding to support their claim of the enhancement before the Special Land Acquisition officer. The references are not

within limitation. The applicants have failed to prove that, the acquired lands are converted into the non-agricultural lands and they are entitled for the enhanced compensation amount. He has further argued that, as per the Section 28 of the Land Acquisition Act the interest of 9 per cent be granted from the date of Award and not from the date of the possession of the acquired lands. He has further argued that, the applicants have failed to prove that, when the possession was taken by the authority of their lands and on which documents they have handed over the possession to them. Therefore, as per the Section 34 of the Act the applicants are not entitled to claim the rent or damages from the non-applicants. He has further argued that, the applicants have no right to raise any grievance at this stage by way of these references and they are not entitled for the enhanced compensation with other reliefs.

As to Issue No.1 to 3

14) Applicant Keshav Gangaram Kendre has deposed that, he and other applicants are the owners and possessors of their land i.e Gut no.20 of their respective areas of the village Kalegaon, Tq.Ahmedpur, Dist.Latur. The lands of the applicants were acquired by the State Government of Maharashtra for the construction of Kalegaonwadi Percolation Tank no.2. They have dissatisfied with the rate of compensation which was awarded by the Land Acquisition Officer. He has further deposed that, he

and other applicants were taking Kharip crops from the acquired lands and used to get the yearly income of Rs.80,000/- per acre from the said lands excluding the cost of the cultivation. He has further deposed that, the village Kalegaon is having population of 5000 and having 8 kms. away from Ahmedpur taluka. There are facilities of Education, Electricity, Banking, Water supply and Medical in the said village. He has further deposed that, the acquisition of lands in taluka for the storage tanks, for the irrigation projects and for the percolation tanks are in existence in the vicinity of the village Kalegaon. The big river is adjacent to the village and connected with State Road, therefore, the project affected persons and the businessman from taluka used to purchase the lands from village Kalegaon and its surrounding area, as it is convenient for them.

15) He has further deposed that, the Land Acquisition Officer has awarded the compensation for the acquired lands on the basis of land revenue assessment which was fixed prior to 100 years by ignoring the developments of the lands, irrigation facilities and the irrigation projects which were surrounded in the said area. He has further deposed that, he and other applicants have filed the statement of claim in response to the notice under Section 9 of the Land Acquisition Act issued by the Land Acquisition Officer and claimed the compensation for their acquired lands at the rate of Rs.500/- per Sq.feet with all

other benefits and the said was not considered by the Land Acquisition Officer. The Land Acquisition Officer has awarded the inadequate compensation of Rs.750/- per R. He has further deposed that, prior to the initiation of the acquisition proceedings in the vicinity of village Kalegaon the market rate of the acquired lands was of Rs.500/- per Sq.feet and they are entitled for the enhanced compensation at the rate of Rs.500/- per Sq.feet with other reliefs.

16) There is no dispute regarding the acquisition of the land Gut no.20 of respective areas which were owned and possessed by the applicants of the village Kalegaon, Tq.Ahmedpur, Dist.Latur and it was compulsory acquisition. However, there is dispute regarding the adequacy of compensation amount as mentioned above. The Land Acquisition Officer has granted the compensation to the applicants at the rate of Rs.750/- per R. The non-applicants have not examined any witnesses on their behalf and no material were produced on the record to show that, on what basis the Acquiring Authority have fixed the amount of compensation. It is the settled position of law that, the Court cannot accept the material relied upon the Land Acquisition Officer in its Award, unless the same material is produced and proved before the Court. The Court is to treat the references as original proceedings before it to determine the market value afresh on the basis of material produced before it. It is also

settled law that, burden to prove that, the awarded amount is inadequate is always on the claimant. The claimant has to discharge the burden by producing the relevant materials, specially that, the acquired land is capable for fetching high market value.

17) It is the contention of the non-applicants that, in spite of granting opportunities in the acquisition proceeding the applicants have not raised the objections regarding market value and also not produced any material to substantiate their claim of high market value. Therefore, according to the non-applicants, now the applicants are estopped from raising any objections regarding the market rate fixed by the Special Land Acquisition Officer. I do not found substance in the above contention of the non-applicants. In view of the Judgment of Hon'ble Karantaka High Court between The Special Land Acquisition Officer, Dharwad vs. Kallangouda reported in 1993 LAC 700, the claimant can move the Court for enhanced compensation even though he has not made any claim before the acquiring authority. It is further observed in the said Judgment that, claimant is under no obligation to explain to support his conduct before the L.A.O. in not making a claim or in making a lessor claim.

18) It is further contended by the non-applicants that, protest in writing were not recorded while receiving the

compensation, therefore, enhanced compensation cannot be claimed now. The non-applicants have not pointed out any provision which dis-entitle the applicants from claiming enhanced compensation in the absence of written protest. The provisions of Land Acquisition Act, give the right to the applicants to make references for the enhancement compensation. The filing of references for the enhancement are itself a protest to the rate decided by Acquiring Authority. Therefore, the applicants are not dis-entitled to claim the enhanced compensation and the objections raised by the non-applicants are not sustainable.

19) The applicants are claiming the compensation at the rate of Rs.500/- per Sq.feet for the acquired lands. The applicants have relied upon the sale deed (Exh.17). I have gone through the contents of the sale deed (Exh.17). The sale deed (Exh.17) dated 15/04/2004 of village Ahmedpur was executed in between Amit Aadaskar & Ors., and Lokayat Shikshan Sanstha, Ahmedpur through it's President. The sale deed (Exh.17) shows that, admeasuring 48 R. land of Survey No.88/1 (88/1/2) was sold for the consideration of Rs.25,80,000/- and its Government rate in that period was of Rs.47,60,000/-. The four boundaries of the said land is mentioned in the sale deed (Exh.17) i.e towards the Eastern side - South-East D.P. road which is going towards Priyadarshini Vastigruh, towards the Western - Nutan Marathi

School and Raosaheb Jagdev Patil's L.Rs. Land, Southern side - area of Priyadarshini Vastigruh and towards the Northern side - the road which is going towards Deshmukh wada (going towards Gavthan). These indicates that, the land mentioned in the sale deed (Exh.17) is adjacent to D.P.road and the said property was purchased for Shikshan Sanstha. In such circumstances, the value of land mentioned in the sale deed (Exh.17) would naturally be more than other lands.

20) The applicants have also relied upon the sale deed (Exh.18). I have gone through the contents of the sale deed (Exh.18). The sale deed dated 27/07/2004 of village Ahmedpur was executed in between Gurunath Baburao Shetkar and Ors., and Avinash Narsinghrao Katikar & Ors. The sale deed (Exh.18) shows that, admeasuring 10 R. land of Survey No.88/1 was sold for the consideration of Rs.8,00,000/- and its Government rate in that period was of Rs.15,30,000/-. The four boundaries of the land which is mentioned in the sale deed (Exh.18) i.e, towards the Eastern side - 7.5 meters wide road, towards the Western side - Priyadarshini D.P. road and the remaining land of the seller situated in Northern side, towards the Southern side - remaining land of the purchaser and 9 meters wide road created in the land of Hariprasad Soni and Ors. by way of agreement and towards the Northern side - remaining land of seller. These indicates that, the land mentioned in the sale deed (Exh.18) is adjacent to D.P. road. In such circumstances, the

value of land mentioned in the sale deed (Exh.18) would naturally be more than other lands.

21) The sale deeds (Exh.17) and (Exh.18) are of village Ahmedpur and the rates indicated in the said sale deeds of lands are naturally be more because those lands are adjacent towards the road. To determine the market rate of the acquired lands both the sale deeds (Exh.17) and (Exh.18) cannot be considered because the lands involved in the said sale deeds are not nearer to the acquired lands. At the same time the lands involved in the above sale deeds are of more non-agricultural potentiality than the acquired lands of village Kalegaon.

22) It would not be out of list to mention that, the decisions of the Joint Civil Judge, Senior Division, Ahemdpur passed in L.A.C.No.680/2008 (Sayyad Ghudan -vs- State of Maharashtra and others) (Group of 7 cases) on 30.12.2014 and in L.A.C.No.727/2008 (Madhav -vs- State of Maharashtra and others) (Group of 14 cases) on 31.12.2014 of the acquired lands of Mouza-Kalegaon, Tah-Ahemdpur, District-Latur, which I have come across from the Official Website of the Hon'ble Bombay High Court. I have pointed out about the said judgments to both the Advocates of the parties and thereafter, the applicants Advocate has submitted that, the applicants are relying upon their evidence and the documents filed by them on the record.

However, to determine the market rate of the acquired lands for the year 2004, it is necessary to refer the above judgments. The Joint Civil Judge, Senior Division, Ahemdpur has passed the judgment in L.A.C.No.680/2008 (Sayyad Ghudan -vs- State of Maharashtra and others) (Group of 7 cases) on 30.12.2014 and in the said matters the market rate of Rs.100/- per Sq.feet was determined for the acquired lands of Mouza-Kalegaon, Tah-Ahemdpur for the year 2007. The said rate was determined for the acquired lands which were having the non-agricultural potentiality, but that lands were not converted as non-agricultural lands. I have also referred the judgment which was passed by the Joint Civil Judge, Senior Division, Ahemdpur in L.A.C.No.727/2008 (Madhav -vs- State of Maharashtra and others) (Group of 14 cases) on 31.12.2014 and in the said matters the market rate of Rs.115/- and Rs.100/- per Sq.feet. respectively were determined for the acquired lands of Mouza-Kalegaon, Tah-Ahemdpur for the year 2006. The market rate of Rs.115/- was determined for the lands which are converted as non-agricultural lands and Rs.100/- per Sq.feet. was determined for the acquired lands which were having the non-agricultural potentiality, but that lands were not converted as non-agricultural lands.

23) However, in the L.A.C.No.680/2008 (Sayyad

Ghudan -vs- State of Maharashtra and others) and in L.A.C. No.727/2008 (Madhav -vs- State of Maharashtra and others) the publication of notification under Section 4 of the Land Acquisition Act were published on 18/01/2007 and 15/06/2006 respectively. In the present matters also the lands of the Mouza-Kalegaon are acquired by the State and the publication of notification under Section 4 of the Land Acquisition Act was published on 21/12/2004. Therefore, it will be proper to rely upon the above referred judgments upto the some extent for determining the market rate of the acquired lands of the year 2004 which are involved in these matters. The market rate of Rs.100/- per Sq.feet was determined in the above judgments for the acquired lands of Mouza-Kalegaon for the year 2006 - 2007 because said lands were not converted as non-agricultural lands. But, the said rate was determined for the year 2006 - 2007 and in the present matters the rate for the acquired lands has to be determined for the year 2004. However, in the year 2006 - 2007 the lands situated in Mouza-Kalegaon were not converted as non-agricultural lands so, its market rate of Rs.100/- per Sq.feet was determined. The acquired lands were also not converted as non-agricultural lands which were having the non-agricultural potentiality in the year 2004 so, its market rate of Rs.80/- per Sq.feet, if, determined then it would be just and proper.

24) Therefore, considering all these above aspects, I am of the view that, the market rate for the acquired lands at the rate of Rs.80/- per Sq.feet will be just and proper.

25) The applicants have contended that, the State has taken the possession of the acquired lands prior to the publication of the notification published under Section 4(1) of the Act and they are entitled for the rent or damages under Section 34 of the Act. The applicants have further contended that, under Section 28 of the Act, they are entitled for 9 per cent per annum from the date of the publication of the notification published under Section 4(1) for first year and at the rate of 15 per cent per annum after the expiry of first year till realization of the amount.

26) The non-applicants have contended that, the applicants have not entitled to claim the reliefs under Sections 28 and 34 of the Act as they have contended.

27) The provisions of Section 34 of the Act regarding the payment of interest would be applicable to case where possession has been taken over prior to issuance of Notification under Section 4(1) of the Act it is necessary to have a look at the Scheme of the Land Acquisition Act. Acquisition means taking not by voluntary agreement but by authority of an Act of Parliament and by virtue of the compulsory powers thereby

conferred. In case of acquisition the property is taken by the State permanently and the title to the property vests in the State.

28) The Land Acquisition Act makes complete provision for acquiring title over the land, taking possession thereof and for payment of compensation to the land owner. Part II of the Act deals with acquisition and the heading of Section 4 is “publication of preliminary Notification and powers of officers thereupon.” The scheme of the Act does not contemplate taking over of possession prior to the issuance of Notification under Section 4(1) of the Act and if, possession is taken prior to the said Notification it will de hors the Act. It is for this reason that, both Sections 11(1) and 23(1) enjoin the determination of the market value of the land on the date of publication of Notification under Section 4(1) of the Act for the purpose of determining the amount of compensation to be awarded for the land acquired under the Act.

29) These provisions show in unmistakable terms that, publication of Notification under S.4(1) is the sine qua non for any proceedings under the Act. Section 34 of the Act, on the basis whereof the appellant laid claim for interest, reads as under the expression “the Collector shall pay the amount awarded with interest thereon at the rate of nine per centum per annum from the time of so taking possession until it shall

have been so paid or deposited” should not be read in isolation divorced from its context. The words “such possession” and “so taking possession” are important and have to be given meaning in the light of other provisions of the Act. “Such compensation” would mean the compensation determine in accordance with other provisions of the Act, namely, Sections 11 and 15 of the Act which by virtue of Section 23(1) mean market value of the land on the date of Notification under Section 4(1) and other amounts like statutory sum under sub-Section (1-A) and solatium under sub-section (2) of Section 23. The heading of Part II of the Act is acquisition and there is a sub-heading “Taking Possession” which contains Sections 16 and 17 of the Act.

30) The words “so taking possession” would therefore mean taking possession in accordance with Section 16 or 17 of the Act. These are the only two Sections in the Act which specifically deal with the subject of taking possession of the acquired land. Clearly the stage for taking possession under the aforesaid provisions would be reached only after publication of the Notification under Sections 4(1) and 9(1) of the Act. If possession is taken prior to the issuance of the Notification under Section 4(1) it would not be in accordance with Section 16 or 17 and will be without any authority of law and consequently cannot be recognized for the purposes of the Act. For the parity of reasons the words “from the date on which he

took possession of the land” occurring in Section 28 of the Act would also mean lawful taking of possession in accordance with Section 16 or 17 of the Act. The words “so taking possession” can under no circumstances mean such dispossession of the owner of the land which has been done prior to publication of Notification under Section 4(1) of the Act which is de hors the provisions of the Act.

31) In a case where the land owner is dispossessed prior to the issuance of preliminary Notification under Section 4(1) of the Act the Government merely takes possession of the land but the title thereof continues to vest with the land owner. It is fully open for the land owner to recover the possession of his land by taking appropriate legal proceedings. He is therefore only entitled to get the rent or damages for use and occupation for the period the Government retains the possession of the property. Where the possession is taken prior to the issuance of the preliminary Notification, it will be just and equitable that the Collector may also determine the rent or damages for use of the property to which the land owner is entitled while determining the compensation amount payable to the land owner for the acquisition of the property. The provision of Section 48 of the Act lend support to such a course of action. For delayed payment of such amount appropriate interest at prevailing bank rate may be awarded.

32) Section 28 and 34 of the Land Acquisition Act are identical in every sense except for stage at which interest is to be granted. Section 34 is about the interest to be granted at the rate of 9% for the period of one year by the Collector at stage of Section 11 Award, while Section 28 is on the interest to be granted by the Civil Court while deciding the application referred to it by the Collector under Section 18. Except this, there is no variation or difference in intent and language expressed and used in both these Sections.

33) The applicants have not adduced their evidence on the documents by which the State has taken the possession of the acquired lands prior to the publication of notification published under Section 4(1) of the Act. They have not adduced the evidence on which date the possession was taken by the State of the acquired lands. The applicants have failed to prove that, they are entitled for the rent or damages of the acquired lands.

34) In view of above discussions, it is held that, the applicants are entitled to get the interest on the enhanced compensation at the rate of 9% p.a. from the date of Award for the first year and at the rate of 15% p.a. for the subsequent period till the date of deposit of such enhanced amount into the Court under Section 28 of L.A.Act. The claim of the applicants pertaining to the rent or damages of the acquired lands are hereby rejected.

35) The applicants are also entitled to get 30% solatium under Section 23(2), 12% additional component under Section 23(1-A) of L.A.Act. The applicants are also entitled to get the interest on the enhanced compensation under Section 28 of L.A.Act. Therefore, I answer issue no.1 in the affirmative, issue no.2 in the partly affirmative and issue no.3 in the affirmative.

As to issue no.4

36) The non-applicants have raised the objection of the limitation. Therefore, it is necessary to discuss the said issue. As per Section 18 of L.A.Act limitation of 6 weeks i.e.42 days for filing the application from the date of receipt of notice under Section 12(2) of L.A.Act is prescribed. The applicants have contended and deposed that, they have got the knowledge of the Award for the first time on 20/11/2017 when they have withdrawn the amount of compensation. Nothing is brought in the cross-examination of the applicant Keshav Gangaram Kendre to disbelieve him in respect of his contention of the receipt of notice on 20/11/2017. The non-applicants have possessed the necessary record with them, but they have also not filed any documents on the record to show that, as to when the notices were actually served upon the applicants. The applicants have withdrawn the compensation amount on 20/11/2017 and that date be reckoned as starting point of the limitation. In view of the above discussion, it is held that, the reference applications are presented within the six months from

the receipt of the compensation.

37) The applicants have also claimed the relief of crop compensation. But the applicants have failed to prove that, at the time of the acquisition in their lands the standing crops were available and they have suffered the loss of Rs.3,60,000/-. The applicants have failed to prove that, they are entitled to get the crop compensation at the rate of Rs.10,000/- per R from the non-applicants. In view of the above discussion, it is held that, the applicants are not entitled for the crop compensation.

38) I have already discussed on issue nos.1 to 3 and given my findings thereon. Therefore, I pass the following order as to issue no.4.

ORDER

1. The references are partly allowed.
2. Non-applicant nos.1 and 2 do jointly and severely pay the enhanced compensation amount at the rate of Rs.80/- (Eighty Rupees only) per Sq.feet to the applicants Keshav Gangaram Kendre for the Gut no.20 admeasuring 0.26 H.R., Pundalik Ramji Kendre for the Gut no.20 admeasuring 0.56 H.R., Sambaji Dhariba Kendre (Died) through his legal heir Laxman Sambaji Kendre for the Gut no.20 admeasuring 0.37 H.R. and Gopinath Gangaram Kendra for the Gut no.20 admeasuring 0.51 H.R. for their acquired lands of Mouje-Kalegaon, Tq.Ahmedpur, Dist.Latur.

3. Non-applicant nos.1 and 2 do jointly and severely pay to the applicants as a solatium @ 30% as per Section 23(2) of L.A. Act, on the enhanced amount of compensation of the acquired lands.
4. Non-applicant nos.1 and 2 do pay to the applicants additional component at the rate of 12% p.a. as per Section 23(1-A) of L.A.Act, on the enhanced amount of compensation for the acquired lands from the date of notification under Section 4(1) of the L.A.Act, till the date of the Award.
5. Non-applicant nos.1 and 2 do pay to the applicants an interest on the excess amount of the compensation at the rate of 9% p.a. from the date of Award for the first year and at the rate of 15% p.a. for the subsequent period till the date of deposit of such enhanced amount into the Court under Section 28 of L.A.Act.
6. The compensation amount which was already paid to the applicants be deducted from the total enhanced compensation amount.
7. The applicants are directed to pay the deficit Court fees, if any, within one month from the date of this order.
8. The original Judgment be kept in L.A.R. No.500/2018 and the true copies of the original Judgment be kept in the L.A.R.No.501/2018, L.A.R.No.502/2018 and L.A.R.No.503/2018.

9. The claim of the applicants pertaining to the rent and crop compensation are hereby dismissed.
10. Parties to bear their own costs.
11. Award be drawn up accordingly.

Ahmedpur.
Date 30.01.2020

(A.R.Surve)
Civil Judge Senior Division
Ahmedpur.

Certified that PDF copy of Judgment supra is word-to-word identical to the original Judgment.

Name	: By Court
Dictated on	: 30.01.2020
Checked on	: 30.01.2020
Signed on	: 30.01.2020
Uploaded on	: 01.02.2020