



Presented on : 13/01/2014  
Registered on : 13/01/2014  
Decided on : 04/09/2023  
Duration : 22 07 09  
Dys Mns Yrs

**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION,  
DHULE, AT DHULE.**

[Presided over by Nikhil Ajitkumar Gupta]  
Jt. CIVIL JUDGE SENIOR DIVISION, DHULE.

**L.A.R. NO. : 1 of 2014**

[S.R. No. 39/2001]

CNR : MHDH020014662014

**Ex. : 66/A**

**CLAIMANTS**

*Represented by*  
*Adv. Mr. R. B. Patil*

**DAMU BHIKA PATIL,**  
**(DEAD, Through LRs)**

- 1) **VIMALBAI DAMU PATIL,**  
Age : Major, Occu. : Homemaker,
- 2) **SHIVAJI DAMU PATIL,**  
Age : Major, Occu. : Service,  
Both R/o. : PILODA,  
Tal. : Shirpur, Dist. : Dhule.
- 3) **SHOBHABAI MADHUKAR PATIL,**  
Age : 44 years, Occu. : Housewife,  
R/o. : GALWADE,  
Tal. Amalner, Dist. Jalgaon

... Versus ...

**OPPONENTS**

*Represented by*

- 1) **THE STATE OF MAHARASHTRA,**

Adv. Mr. V. S. Purohit

**DEPUTY COLLECTOR, DHULE,  
THE SPECIAL LAND ACQUISITION  
OFFICER, No. 1,  
Medium Irrigation Project,  
DHULE, Tal./Dist. Dhule.**

Represented by  
Adv. Mr. V. S. Purohit

2) **THE EXECUTIVE ENGINEER,  
Hatnur Canal Department, CHOPDA,  
Near Aakashwani Kendra, JALGAON.  
Dist. : Jalgaon.**

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## **Reference U/s. 18 of The Land Acquisition Act, 1894**

### **J U D G M E N T**

( Pronounced on this 04<sup>th</sup> Day of September 2023 )

This Land Reference is referred by the Collector, Dhule, as per provisions of Section 18 of the Land Acquisition Act, 1894 [Hereinafter referred as "*The Act*"].

#### 2. **Details of Acquired Land :**

The acquired land is from village : **PILODA**, Tal. : Shirpur,  
Dist. : Dhule. The description of the land is as follows;

| <i>Gat No.</i>                            | <i>Acquired land</i>                                                                                                                                                                       | <i>Acquired Fallow Land (पोट खराब जमीन)</i> | <i>Land as per 7 x 12 extract</i> | <i>Fallow Land (पोट खराब जमीन) as per 7 x 12 extract</i> |
|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|-----------------------------------|----------------------------------------------------------|
| <b>310/1-A</b>                            | <b>0H 32R</b>                                                                                                                                                                              | <b>0H 13R</b>                               | <b>02H 13R</b>                    | <b>- - -</b>                                             |
| <b><i>Nature of the land acquired</i></b> | <i>It is the contention of claimants that, the acquired land is <b><u>Irrigated Bagayat Land</u></b>, however, it is shown as <b><u>Dry Jirayat land</u></b> by the SLAO in the Award.</i> |                                             |                                   |                                                          |

3. **Details of Land Reference :**

|                                                                                       |                                                                                                                                                         |
|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Purpose of Acquisition</i>                                                         | <b><i>For the purpose of major Tapi Padalse Project Padalse Dam</i></b><br><br>[ निम्न तापी प्रकल्प पाडळसे धरणाखाली बुडीत होणारे क्षेत्र प्रयोजनासाठी ] |
| <i>LAQ S. R. No.</i>                                                                  | <b>39/2001</b>                                                                                                                                          |
| <i>Date of Preliminary Notification as contemplated under section 4(1) of The Act</i> | <b>02/12/2010</b>                                                                                                                                       |
| <i>Date of Award as per Section 11 of The Act.</i>                                    | <b>24/03/2012</b>                                                                                                                                       |
| <i>Notice U/Sec. 12(2) of The Act.</i>                                                | <b>Not received.</b>                                                                                                                                    |
| <i>Possession of Acquired Land taken on</i>                                           | <b>- - - -</b>                                                                                                                                          |
| <i>Date of Receipt of Compensation Amount by claimant under protest.</i>              | <b>Not Accepted.</b>                                                                                                                                    |

4. **Case of Claimants :**

- a) Claimants have come with a case that, they have

raised objection against the Award granting compensation for the land acquired by the State Government. The compensation amount determined by the Special Land Acquisition Officer (*Herein after referred as SLAO*) is grossly inadequate and extremely meager. The procedure adopted by the SLAO was not based on equity, just and good conscience. The SLAO did not consider the principles required to be considered while deciding market rate and has failed to assess the correct, just and proper market value of the land on the date of publication of notification under section 4(1) of the Act.

- b) The Claimants asserts that, the compensation amount was not determined by following just and proper procedure. The soil in the acquired land is extremely fertile and yields good crops. The land is irrigated Bagayat land. The SLAO has ignored these facts and the topography of the acquired land while determining the amount of compensation. The SLAO has adopted an erroneous method for determining the market value of the acquired lands.
- c) It is the contention of claimants that, the sale instances to ascertain market value of the acquired land were completely ignored by the SALO. Evidence in regard the market price of the land was not

collected by the SLAO. The SLAO also failed to take in to consideration the quality of the soil in the land and yield earned from it. The fact that the land is in close proximity of road, market place and town is ignored by the SLAO. The SLAO has not made any local inquiry, local investigation and *panchanmas* in the vicinity. The SLAO erroneously treated his wet Bagayat land as dry Jirayat land. The SLAO failed to consider the galloping prices of the lands in the vicinity and decided the compensation amount erroneously. The compensation is very less and not as per market value.

- d) On the aforesaid contentions, the claimants have not accepted the Award. They have raised objection to the amount of compensation and preferred a written application to the Collector, Dhule, requiring that the matter be referred by the Collector, Dhule, for the determination of the Court. Hence, this land reference is filed before this Court.
- e) Claimants have further contended that, they came to know about the award just few days before filing this reference. Notice U/sec. 12(2) of the Land Acquisition Act was not served to them. Therefore, they were not aware about the Award and the land acquisition proceedings. They have also not accepted the amount of land acquisition for the acquiring body.

Hence, their reference is well within limitation.

5. **Relief Claimed :**

- a) On the aforesaid facts, claimants are praying for enchancement of amount of compensation for wet Bagayat land and for fallow land.
- b) Claimants are also praying for grant of 30% solatium amount in addition to the enhanced compensation.
- c) Claimants are also claiming component at the rate of 12% per annum for the period commencing on and from the date of publication of the notification under section 4(1) of the Act to the Date of Award.
- d) Claimants have also made prayer for grant of interest at the rate of 9% for the first year from the date of possession and interest at the rate of 15% thereafter till the date of realization of entire amount.

6. **Case of Opponents :**

- a) Opponent Nos. 1 and 2 appeared and filed their Say/Written Statement at **Ex. 10 Ex. 18.**
- b) Opponents objected the assertions and claim of claimant. They prayed for rejection of the Reference contenting that the Award has been correctly passed and the compensation is just, legal and proper.

- c) Opponents contented that the reference is not within limitation. They denied the averments made by claimant and branded them incorrect and baseless. They contended that, the claimant is claiming abnormal and exorbitant compensation. The same is excessive and not according to equity. They contended that, the SLAO has correctly assessed the acquired land and fixed a just and proper compensation. The lands are properly classified on the basis of quality of soil, assessment and other factors. The SLAO has followed a legal, proper and just procedure for determination of compensation. The SLAO has taken into consideration all the required factors and principles for assessment of market price of the acquired land on the date of publication of the Notification under Section 4(1) of the Act. The sale instances and other factors are properly given weightage while considering the amount of compensation. The Award is supported with sound, legal, just and cogent reasons. It is correctly passed. The SLAO has considered all the documentary evidence filed by the claimant and gathered during inquiry and on that basis the compensation is determined. The compensation amount is fair, adequate and proper. All the factors affecting the market value of the acquired land are

considered by the SLAO. Judicial averments and provisions of Law are also considered while passing the Award. There is no justifiable to doubt the correctness of the Award and therefore the reference is liable to be rejected.

7. **ISSUES** : My learned predecessor framed Issues at *Ex. 23*. I reproduce them and record my findings against them for the reason recorded therein after.

| <b>Sr. No.</b> | <b>Issues</b>                                                                                                                             | <b>Findings</b>                                                           |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>1</b>       | <i>What was the market price of the acquired land on the date of the notification under section 4 of the Land Acquisition Act, 1894 ?</i> | <b>Land Reference not within Limitation Hence, Question do not arise.</b> |
| <b>2</b>       | <i>Whether the amount awarded as compensation is inadequate or unlawful ?</i>                                                             |                                                                           |
| <b>3</b>       | <i>Is the applicant entitled to additional compensation ? If yes, to what extent ?</i>                                                    |                                                                           |
| <b>4</b>       | <i>What order and award ?</i>                                                                                                             | <b>AS PER FINAL ORDER</b>                                                 |

## **REASONS**

8. The Land Acquisition Act aims to balance the need of the Government to acquire land and the rights of the individual whose land is acquired. This balance is



achieved by providing adequate compensation for the loss of land suffered by the individual. Thus, promotion of public purpose has to be balanced with the rights of the individual whose land is acquired, thereby often depriving him of his means of livelihood.

9. Equity and justice, therefore, demands that, to decide such a market value towards compensation which is fair for the owner of the land, who lost his land in acquisition.
10. While fixing the market value of the acquired land, the nature of the land/soil plays an important role. Likewise, proximity of the land and market conditions prevailing as on the date of notification are also relevant. The Potential of the acquired land are also required to be considered while determining the compensation amount.
11. In the reference in hand, the claimants are claiming enhanced compensation. They are disputing the fairness and correctness of the Award passed by the SLAO and objecting the amount of compensation decided by the SLAO.
12. At this juncture I am guided by the observations of Hon'ble Supreme Court in the case of *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona and Ors.* **MANU/SC/0071/1988**. The Hon'ble Supreme Court has observed that,

*“A reference under section 18 of the L. A. Act is*

*not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition Officer in his Award unless the same material is produced and proved before the Court. So also the Award of the Land Acquisition Officer is not to be treated as a judgment of the trial Court open or exposed to challenge before the Court hearing the Reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot be utilised by the Court unless produced and proved before it. It is not the function of the Court to suit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition Officer, as if it were an appellate Court. The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it. The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.”*

13. To prove the claim and to establish that, the compensation awarded by SLAO is meager and inadequate, claimant has poured on record following evidence;

**ORAL EVIDENCE :-**

- a) Claimant Shivaji, entered the witness box as C.W. No. 1 by filing his affidavit of examination-in-chief at **Ex. 48**

and closed his oral evidence by filing *pursis* at **Ex. 63**.

**DOCUMENTARY EVIDENCE :-**

- a) The 7 x 12 extract of the Gat No. : 310/1-A of Piloda at *Ex. 53* and *Ex. 54*.
  - b) Award as per Sec. 11 of the Act at *Ex. 50*.
  - c) Copy of Notice U/Sec. 4(1) and 12(2) at *Ex. 51* and *Ex. 52*.
  - d) Copy of Sale Deeds and Index II at *Ex. 55 to Ex. 58* and *Ex. 62*,
  - e) Judgment Passed by the Reference Court at Dhule in L.A.R Nos. 85/2021, 86/2021 and 87/2021.
14. Opponents have not put on record any evidence on their behalf.
15. **AS TO ISSUE OF LIMITATION** : The Issue of Limitation is not framed below **Ex. 23**, however, issue of Limitation being an Issue of Law, it can be discussed and decided even if the same is not framed.
16. Advocate for Claimant was informed and was made aware about the aspect of Limitation involved in this Land Reference. He was heard through Adv. Mr. *Jagdish Suryawanshi* at length on the point of Limitation. Advocate for claimant was not inclined to lead any additional oral or documentary evidence on the point of Limitation. He authorized Adv. Mr. *Jagdish Suryawanshi* to argue before

the Court on this Point. Accordingly, Adv. Mr. Suryawansi argued on the point of Limitation on 21/08/2023.

17. The Issue relating to the period of limitation for filing an application under section 18(1) of the Act is a condition precedent for consideration of a reference by this Court. Section 18(1) of the Act provides that, any person interested, who has not accepted the award, may, by ***written application to the Collector, require that the matter be referred by the Collector for the determination of the Court***, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.
18. ***Proviso*** to sub section 2 of the said section prescribes that every such application shall be made, *if the person making it was present or represented before the Collector at the time when he made his award, within 6 weeks from the date of the Collector's award; in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub section (2), or within six months from the date of the Collector's award, whichever period shall first expire.*
19. In the case in hand, admittedly, the award was passed on **24/03/2012**. I have gone through the Award and Record of the Reference, there is nothing on record to show that, the

claimants were either present or represented before the SLAO at the time of passing of the Award. On the contrary, claimants have come up with a contention that, they were not aware about the Award and the proceedings of Land Acquisition. They have neither received the Notice U/sec. 12 of the Act nor they have received the amount of land acquisition compensation under protest.

20. The evidence on record goes to show that, the claimants had neither appeared in the land acquisition proceeding nor received Notice U/Sec. 12(2) of the Act. Thus, the references under consideration would fall under the provisions of section 18(2)(b) of the Act.
21. It has come on record in the oral evidence of claimants that, they recently came to know about the Award. However, there is nothing on record to infer as to on which date, month or year they got information about the Award. The pleadings and evidence in this regard is vague. Claimants have further contended that, they neither received the Notice U/sec. 12 of the Act nor they have accepted the amount of land acquisition compensation under protest.
22. In such circumstances, as per the operation of Law and as provided in Sec. 18(2)(b) of the Act, this claim ought to have been filed within six months from the date of Award passed by the Collector i.e. S.L.A.O. The Award is passed on

**24/03/2012** and this Reference is filed before the Dy. Collector, Land Acquisition No. 1, Dhule on **09/01/2014**. In view of the provision U/Sec. 18(2)(b) this Reference ought to have been preferred on or before 24/09/2012, but it is filed in the year 2014. No justifiable cause is put forward by claimants to explain this delay of more than a year in preferring the Reference.

23. It was the argument for claimants that, they were not aware about the Award and they have got its knowledge recently. But this theory put forth by claimant is vague and unreasonable. Claimant has not specified the month or year when they came to know about the Award. Nonetheless, the language of Sec. 18(2)(b) of the Act do not provide for any discretion of the Court and it requires the Claimant to approach Court within 6 months from the date of Award.
24. In the case in hand, the Award is passed on **24/03/2012** and this Reference is filed before the Dy. Collector, Land Acquisition No. 1, Dhule on **09/01/2014**. In such circumstances, considering the provisions of Sec. 18(2)(b), I am of the opinion that, the reference is not within limitation and it is barred by Law of limitation.
25. **AS TO ISSUE NO. 1 TO 4** [COMPENSATION AND MARKET VALUE OF ACQUIRED LANDS] : Since the Reference is not instituted within Limitation, the Question of determining

the Market value of the acquired land and adequacy of compensation do not arise. The Reference shall fail for not been instituted within Limitation. I therefore answer **ISSUE NO. 1 TO 3 ACCORDINGLY** and in answer to **ISSUE NO. 4** following Order is passed.

**ORDER**

1. Land Reference stands Dismissed with Costs.
2. Case and Proceedings stands Disposed off accordingly.

Place : Dhule,

Date : 04<sup>th</sup> September 2023.

[Nikhil Ajitkumar Gupta]  
Jt. Civil Judge Senior Division,  
Dhule, Dist. : Dhule.