Presented on : 16.08.2013
Registered on : 16.08.2013
Decided on : 01.06.2019
Duration : 05-Y. 09-M. 16-D.

In The Court of 4th Joint Civil Judge, Senior Division, Dhule, Dist. Dhule.

(Presided over by – Shri S. H. Garad)

Land Acquisition Reference No.116/2013
(CNR NO : MHDH020012982013)
Exh. : 28/A

Kalabai Shankarsingh Pardeshi
Age : Major, Occ. : Agriculturist
R/o Piloda, Tal. Shirpur,
Dist. Dhule. ... **Applicant.**

- V/S -

1. The State of Maharashtra
Through -
The Collector,
Administrative Office, Dhule.
2. Special Land Acquisition Officer
Collector Office, Dhule
3. The Executive Engineer,
Irrigation Office, Sakri Road, Dhule ... **Opponents**

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Presented on : 17.08.2013
Registered on : 17.08.2013
Decided on : 01.06.2019
Duration : 05-Y. 09-M. 15-D.

Land Acquisition Reference No.123/2013
(CNR NO : MHDH020013052013)
Exh. : 29/A

Jaywantrao Baburao Patil
Age : Major, Occ. : Agriculturist
R/o Piloda, Tal. Shirpura,
Dist. Dhule. ... **Applicant.**

- V/S -

1. The State of Maharashtra
   Through -
   The Collector,
   Administrative Office, Dhule.
2. Special Land Acquisition Officer
   Collector Office, Dhule
3. The Executive Engineer,
   Irrigation Office, Sakri Road, Dhule ... **Opponents**

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APPEARANCES :

Mr. P. B. Sisode, Learned Advocate for Applicants.
Mr. V. S. Purohit, Learned AGP for Opponents.

Reference U/Sec.18 of the Land Acquisition Act, 1894

- COMMON JUDGMENT -

(Delivered on this 1st day of June 2019)

These reference applications are filed by the applicants as per Sec.18 of Land Acquisition Act (hereinafter referred to as the 'Act') for getting enhancement in compensation awarded Special Land Acquisition Officer (hereinafter referred to as 'SLAO'). These references are from and out of same award. Therefore, they are disposed off by way of this common judgment.

Brief Facts of reference applications are as under :

2. In these reference applications, the land mentioned therein from village Piloda, Tal. Shirpur, Dist. Dhule have been acquired by SLAO in the proceeding bearing LAQ/SR No.39/2001 for construction of dam Project namely, Nimna Tapi prakalpa, Padalsare. The applicants are the owners and possessors of said land. The acquisition proceeding started in the year 2010. The notification U/Sec.4 of the Act was published on 25.12.2010. The possession of said land was taken on 15.10.2012 while

making 80% of compensation amount of said land. After final notification U/Sec.6 of the Act, the award was passed on 24.03.2012 and notice U/Sec.12 (2) was issued to the applicants by SLAO to receive the compensation on 29.09.2012. Accordingly, the payment towards compensation of acquired land was received by the applicants under protest reserving their rights to make these references on 15.10.2012.

3. The description of acquired lands is as under :

Sr. No.	***LAR No.***	***Name of the Village***	***Block No.***	***Acquired Area (Hector – R)***
1	116/2013	Piloda, Tal- Shirpur, Dist- Dhule.	4/1	03 R
2	123/2013	Piloda, Tal- Shirpur, Dist- Dhule.	290/1	45 R p.k. 15 R

4. The applicants being dissatisfied with the quantum of compensation awarded by SLAO, preferred these reference applications U/Sec. 18 of the Act for enhancement of compensation. According to applicants, the SLAO has not taken into consideration the sale instances properly. The SLAO has not awarded compensation on the basis of income derived from said lands. The SLAO has classified the land on the basis of land revenue assessment which is not proper. The award of SLAO is against the facts, equity and evidence. The SLAO has ignored the fertility of the land. The acquired lands of applicants are jirayat lands. At the relevant time, the prevailing market rate in the vicinity of acquired lands was Rs.6,00,000/- per hector for Jirayat land. However, the SLAO determined the market value of acquired land @ Rs.2,26,000/-, and Rs.3,15,000/- per hector for jirayat land and it's 25% per hector for *pot-kharab* land. So, the applicants are claiming enhanced compensation for the acquired lands and also claiming consequential benefits.

5. The opponents resisted the reference applications by filing their written statement. According to them, the SLAO has considered the situation of the lands under acquisition and also taken into consideration all other factors while assessing the market price on the date of notification U/sec 4 of the Act. The SLAO has classified the lands on the basis of quality of soil, assessment and other sole factors. The SLAO has considered the genuine sale instances for determination of price of land. So, the claim of the applicants exorbitant based on false and imaginary grounds. Therefore, the applicants are not entitled for any enhanced compensation. Hence, they prayed to reject the applications.

6. From rival contentions and the documents filed by the parties following issues came to be framed at the relevant Exhibits in the said Land References. I have recorded my findings against them for the reasons given below:

[1] In LAR No. 116/2013

No.	**ISSUES**	**FINDINGS**
1	Whether the Reference is within limitation ?	***In the affirmative.***
2	Whether the amount of compensation as per the Award is inadequate and unlawful ?	***In the affirmative.***
3	Is claimant entitled to enhanced compensation ? If yes, to what amount ?	***In the affirmative.*** ***As per final order***
4	What is the market price of the acquired land on the date of the Notification under Section 4(1) of the Land Acquisition Act, 1894 ?	***Rs.3,50,000/- P.H. For Jirayat and Pot-kharab land***
5	What Order and Award ?	***As per final order***

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[2] In L.A.R. No. 123/2013

	ISSUES		FINDINGS
1.	What was the market price of acquired land on the date of notification under section 4 of the Land Acquisition Act, 1894?	:	***Rs.3,50,000/- P.H. For Jirayat and Pot-kharab land***
2.	Whether the amount of compensation as per the Award is inadequate and unlawful ?	:	***In the affirmative.***
3.	Whether the claimant entitled to enhanced compensation?	:	***In the affirmative.***
	If yes, to what amount?		***As per final order***
4.	What order and award?	:	***As per final order***

REASONS

7. In order to prove contentions and claim, the applicants have examined themselves on oath by way of affidavit. Besides oral evidence, they relied upon the documents namely certified copy of sale deed bearing day book No.422/2005 dated 02.03.2005, sale deed bearing day book No.1516/2008, dated 28.05.2008, sale deed bearing day book No.933/2006, dated 24.04.2006, sale deed bearing day book No.1660/2009, dated 21.05.2009 and the sale deed bearing day book No.1670/2009, dated 26.05.2009, sale deed bearing day book No.3667/2009 dated 18.12.2009, sale deed bearing day book No.1615/2005, dated 14.07.2005, sale deed bearing day book No.1791/2009, dated 02.06.2009 in LAR No.118/2013 and filed *pursis* to read this evidence in these LARs, the award bearing LAQ No.39/2001 and 7/12 extracts of acquired lands for the year 2017-2018, 2006-2007 to 2011-2012.

8. The opponents have not adduced any oral as well as documentary evidence. They closed their evidence by filing *pursis.*

9. Heard Ld. Adv. Mr. P. B. Sisode for applicants and Ld. AGP Mr. V. S. Purohit for opponents.

<u>AS TO ISSUE No.1 in LAR No 116/2013:</u>

10. The applicants contended in the reference that SLAO issued notice U/Sec.12 (2) of the Act and served on them through Village Talathi on 29.09.2012 requiring them to remain present for receiving the compensation. When the award was declared, they were not present nor their representative was present.

11. Admittedly, the award was passed on 24.03.2012. The reference is filed on 01.11.2012. As per Sec.18 (2) (a) of the Act, if the person making such reference was present or represented before Collector at the time when he made his award, the reference is required to be made within 6 weeks from the date of Collector's Award. In other cases, within 6 weeks of receipt of notice from the Collector U/Sec.12, Sub-Sec.2 of the Act, or within 6 months from the date of Collector's Award, whichever period first expires. Thus, the reference is filed within 6 weeks of receipt of notice from the Collector U/Sec.12 (2) of the Act. Therefore, I hold that the reference are filed within limitation. Therefore, I recorded my findings to issue no.1 in LAR No. 116/2013 in the affirmative.

<u>AS TO ISSUE No.2 & 4 in LAR No. 116/2013 and 1 & 2 in LAR No. 123/2013 :</u>

12. In this context, the Ld. Adv. for applicants submitted that the compensation awarded by SLAO is without averting to the provisions of Sec.23 of the Act. He has not considered the nature, fertility, potentiality of the land, sale transactions taken place prior to notification though the same were available. There are different method of valuations to be

adopted to ascertain the market value of the land on the date of notification. They are1)Opinion of experts. 2) The price paid within a reasonable time in bona-fide transaction of the adjacent lands possessing similar advantages i.e. comparative method. 3) The actual or imaginative prospective profits of the lands by the appropriate capitalization method. The applicants are relying on comparative method to ascertain the market value of their acquired lands. They have given various evidence of different sale transactions of the lands situated within the vicinity of acquired land, which reflects that the price of these lands is Rs.6,00,000/- per Hector for Jirayat lands, Rs. 8,00,000/- for Bagayat lands and Rs. 5,00,000/- for Poy-kharab lands. It is settled legal principle that the Bagayat land fetches the double the price of Jirayat land and the half price of Jirayat land for *pot-kharab* land. But, SLAO has determined the market value of acquired land @ Rs.2,26,000/- Rs.3,15,000/- per Hector for Jirayat lands and 25% of Jirayat lands for *pot-kharab* land. Therefore, compensation awarded by SLAO is inadequate,. He placed his reliance on following judgments :

1. ***Chimanlal Hargovinddas Vs. SLAO, Poona, AIR 1988 SC 1652.***

2. ***Koyappathodi M. Ayisha Umma Vs. State of Kerala, 1991 (4) SSCR.***

3. ***G.M.O.N.G.C. Ltd. Vs. Shendhabhai Vastram Patel & Others, 2005 LAR (Civil) 700.***

4. ***Land Acquisition Officer, Mhada, Vs. zarine Ashraf Ali, 2002 (2) BCJ 127.***

5. ***Subhash chandra Narayan Bhobe Vs. Land Acquisition Officer, Punji, Goa, & Another, 1994 (2) Mah LR 830.***

6. ***Land Acquisition Officer and Mandal Revenue Officer Vs. Narsaiah 2001 LAR SCW 867.***

7. ***State of Goa Vs. Jose Minguel Francisco Braganza & Others, 1997 (2) BCJ 131.***

13. On the other hand Ld. AGP submitted that sale instances produced by the applicants are not in the vicinity of acquired land. The lands under sale instances from Manjrod and Hol which are far away from acquired lands. The applicants have not shown on record by giving cogent evidence that land under sale instances and acquired lands are similar in quality, fertility, situation and location. Therefore, these sale instances cannot be comparable sale instance to determine the market value of acquired lands. He further added that the SLAO has considered all these aspects and has properly determined the market value of acquired lands. Hence, the award passed by SLAO be confirmed.

14. In the case of ***Chimanlal (Cited Supra)***, the Hon'ble Apex Court has held that award passed by SLAO is not a judgment and the reference petition is not a challenge to the said award in appeal or revision etc. It is further held that the award cannot be basis for appreciation by the Court unless the material on which the award is passed is produced and proved before the Court. The award is merely a proposal on the basis of material collected by SLAO.

15. In the case of ***Koyappathodi (cited supra)***, the Hon'ble Apex Court has laid down the directions as to how to value a land having building / structure or fruit bearing tree to be determined. The Hon'ble Apex Court has held that different method of valuation to be adopted to be ascertain market value of the land on the date of notification are :

1. *Opinion of experts.*
2. *The price paid within a reasonable time in bona-fide transaction time of adjacent land possessing similar advantages i.e. comparative method.*
3. *The actual or imaginative prospective profits of the lands by the appropriate capitalization method.*

16. In the case of ***G.M.O.N.G.C. Ltd. (cited supra)***, the Hon'ble

Apex Court has held that the best method for determination of amount of compensation is the amount which is willing purchaser would pay to the owner of the land as may be evidenced by deeds of sale instances of sale in respect of the similar land situated in the same village and / or neighbouring village should be taken as guiding factor.

17. In the case of ***Land Acquisition Officer and Mandal Revenue Officer (cited supra),*** the Hon'ble Apex Court has held that the certified copy of sale deed relating to similar land situated in the vicinity can be relied upon without examining vendee or vendor or anybody else connected with the sale.

18. In the case of ***Subhash chandra (cited supra),*** the Hon'ble Bombay High Court has held that once the reference court accepts a sale deed as comparable sale instance, it should award the compensation at the rate mentioned in the sale deed.

19. In the case of ***State of Goa (cited supra),*** the Hon'ble High Court (Punaji Bench) has reiterated the view of Hon'ble Supreme Court in the case of Printers House Pvt. Ltd. that the best evidence for determining the market value of acquired land could be an authentic transaction of sale relating to the very acquired land or portion thereof or any other land which could be favourable compared with acquired land.

20. In the case ***Chimanlal Hargovinddas Vs Special Land Acquisition Officer, Poona, AIR 1988 S.C.1652,*** the Hon'ble Supreme Court further held that 'While determining market value of the land it should be determined on the crucial date of publication of the Notification under Section 4 of the Land Acquisition Act (dates of notification under Sections 6 and 9 are irrelevant). The Court has to co-relate the

market value reflected in the most comparable instance which provides the index of the market value. The most comparable instances have to be identified on the consideration of proximity from time angle and proximity from situation angle. Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be reduced by making suitable adjustments or the plus and minus factors vis-a-vis land under acquisition by placing the two in juxtaposition'.

21. In the light of above legal guidelines laid down by Hon'ble Apex Court and the Parent High Court, the evidence came on record is to be assessed.

22. The applicants deposed that their lands are of black soil and of high potentiality and fertility. They are bagayat lands. They were taking bagayat crops in their lands. Their lands were irrigated by canal water. Shirpur city is tahasil place to their village. That is situated at the distance just 15 to 20 km from their village. There is grampanchayat, petrol pump, Talathi office, Banks, Primary school, Ashram school, Primary Health Centre, Dispensary in their village. There is also mobile and telephone facility in their village. Therefore, the market value of acquired lands were increased at the relevant time of notification. However, SLAO has not considered these aspects while determining the market value of acquired lands. At relevant time of notification the market value of the lands in the vicinity of the village Piloda was Rs. 6,00,000/- per Hector for Jirayat lands and Rs. 8,00,000/- per Hector for Bagayat lands. They have produced the sale deeds of some sale instances on record for perusal.

23. However, the applicants said version is not supported by any

documentary evidence in the nature of authentic map of acquired land, boundary certificate issued by Talathi and report of laboratory about quality of acquired land. The applicants in their cross-examination have admitted that they do not have the documentary evidence to show that the acquired land was of good fertility. The applicants should have led such best possible evidence in support of their case. However, they have not led such best possible evidence. Hence, in absence of such best possible evidence, the interested oral version of the applicants is difficult to believe.

24. On perusal of sale deed produced by the applicants, it reveals that the sale deed bearing day book No.422/2005 dated 02.03.2005, sale deed bearing day book No.933/2006, dated 24.04.2006, sale deed bearing day book No.1660/2009, dated 21.05.2009 and the sale deed bearing day book No.1670/2009, dated 26.05.2009, sale deed bearing day book No.3667/2009, dated 18.12.2009, sale deed bearing day book No.1615/2005, dated 14.07.2005 are in respect of lands situated within the limits of village Manjrod, Tal. Shirpur, Dist. Dhule and the sale deed bearing day book No.1516/2008, dated 28.05.2008, sale deed bearing day book No.1791/2009, dated 02.06.2009 are in respect of the lands situated within the limits of village Hol, Tal. Shirpur, Dist. Dhule.

25. The fact that village Manjrod and Hol are the neighbouring village of village Piloda is not denied by the opponents in the cross-examination of the applicants. Nor, they disputed this fact in their written statement. Therefore, in such circumstances, the sale instances of neighbouring villages can be considered for determination of market value of acquired land as comparable sale instance.

26. The sale deed bearing day book no.422/2005 pertains to sale

of 1H.31R land from the land bearing block no.168/1B1 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.5,85,000/-. It is in respect of Hangami Bagayat land. Thus, the value of said land per hector comes to be Rs.4,64,564/- per hector. The sale deed bearing day book no.1516/2008 pertains to sale of 60R land from the land bearing block no.186/1B situated within the limits of village Hol, Tal.Shirpur, Dist.Dhule for consideration of Rs.3,75,000/-. It is in respect of Canal Bagayat land. Thus, the value of said land per hector comes to be Rs.6,25,000/- per hector. The sale deed bearing day book no.933/2006 pertains to sale of 60 R land from the land bearing block no.223/1B situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.2,82,000/-. It is in respect of Canal Bagayat land. Thus, the value of said land per hector comes to be Rs.4,70,000/- per hector.

27. The sale deed bearing day book no.1660/2009 pertains to sale of 65 R land from the land bearing block no.204/2 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.5,15,000/-. It is in respect of Hangami Bagayat land. Thus, the value of said land per hector comes to be Rs.7,92,307/- per hector. The sale deed bearing day book no.1670/2009 pertains to sale of 1H.20R land from the land bearing block no.239/1 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.8,64,000/-. It is in respect of Bagayat land. Thus, the value of said land per hector comes to be Rs.7,20,000/- per hector. The sale deed bearing day book no.3667/2009 pertains to sale of 81R land from the land bearing block no. 320 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.4,90,000/-. It is in respect of Hangami Bagayat land. Thus, the value of said land per hector comes to be Rs.6,04,938/- per hector. The sale deed bearing day book no.1615/2005 pertains to sale of

65 R land from the land bearing block no.236 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.2,90,000/-. It is in respect of Canal Bagayat land. Thus, the value of said land per hector comes to be Rs.4,46,153/- per hector. The sale deed bearing day book no.1791/2009 pertains to sale of 68 R land from the land bearing block no.111/1 situated within the limits of village Manjrod, Tal.Shirpur, Dist.Dhule for consideration of Rs.4,50,000/-. It is in respect of Canal Bagayat land. Thus, the value of said land per hector comes to be Rs.6,61,764/- per hector.

28. However, it can be seen from said sale instances that they are of period much prior to the date of notification of acquired land. In such circumstances, the Hon'ble High Court held in the case G***enu Bhivaji Rao Vs. Special Land Acquisition Officer, Upper Godavari Nashik, 2008 (3) Mh.L.J.772*** that grant of 10% annual increase on account of appreciation of value of the land for the intervening period would be quite justifiable. Considering this ratio and the intervening period of each sale instance, the approximate market price of respective lands therein within the limits of village Manjrod and Hol goes per hector as per the description shown in the following table.

Sr.No.	Sale Deed No.	Date of Sale Deed	Intervening Period (Year - Month)	Market Value Per Hector on the date of notification
1	422/2005	02.03.2005	5 – 9	Rs.7,03,338/-
2	1516/2008	28.05.2008	2 – 6	Rs.7,81,250/-
3	933/2006	24.04.2006	4 – 7	Rs.6,89,333/-
4	1660/2009	21.05.2009	1 – 6	Rs.9,11,153/-
5	1670/2009	26.05.2009	1 – 6	Rs.8,25,000/-
6	3637/2009	18.12.2009	0 – 11	Rs.6,60,390/-
7	1615/2005	14.07.2005	5 – 6	Rs.10,91,537/-

8	1791/2009	02.06.2009	1 – 6	Rs.7,61,028/-

29. It is pertinent to note that, abovesaid sale instances are in respect of Hangami Bagayat lands and Canal Bagayat lands. It is common known fact that the Canal Bagayat lands are those lands which are irrigated by channel through canal water released in the canal from concerned dam. Hence, those lands are also treated as Hangami Bagayat lands. It is also pertinent to note that Hangami Bagayat lands means which has got its own irrigation source like well or tube well. Thus, it can be seen from the market value of the lands under sale instances that approximate market value of Hangami Bagayat lands within the revenue limits of village Manjrod and Hol was @ Rs.7,50,000/- per hector.

30. However, the aforesaid market price of the lands under sale instance cannot be blindly accepted for determination of market price of acquired land, unless there is complete similarity as regards to nature, size, locality, shape and fertility of the land between the lands covered by sale deed and acquired land. There can be some positive and negative factors.

31. In the case of ***Shaji Kuriakose Vs. Indian Oil Corporation, AIR 2001, SC 3341,*** the Hon'ble Supreme Court has held that, the comparable sales method of valuation of the land for fixing the market value of acquired land is not always conclusive. There are certain factors which are required to be fulfilled and fulfilment of those factors, the compensation can be awarded to the value of the land reflected in the sales. The factors laid down *inter-alia* are :

1. *The sale method must be genuine transaction.*
2. *That the sale deed must have been executed at the time proximate of date of issue of notification U/Sec.4 of the said Act.*

3. *That the land covered by sale must be in the vicinity of acquired land.*
4. *That the land covered by the sale must be similar to the acquired land.*
5. *That the size of the plot of the land covered by sale be comparable to the acquired land.*

32. If all these factors are satisfied, then there is no reason as to why the sale value of the land covered by sale did not give for the acquired land. However, if there is any dis-similarity in regard to the locality, shape, size of or the nature of the land between the lands covered by the sale and the land acquired, it is open to Court to proportionally reduced the compensation for the acquired land than what is reflected in the sale depending upon the dis-advantages attached to the acquired land.

33. In the case of ***Genu Bhivaji Rao Vs. Special Land Acquisition Officer, Nashik, 2008 (3) Mh.L.J. 772,*** the Hon'ble High Court of Bombay has also held that the Court has to rely upon certain guess work while computing the compensation payable to applicant. Therefore, above said sale deed can be relied upon with suitable adjustment for determination market value of acquired lands.

34. It is settled position that, compensation awardable to Jirayat land is almost 2/3 of market value of Hangami Bagayat land. Said formula reflects in the decision of Hon'ble Bombay High Court in the case of ***Executive Engineer Officer, Dhule, M. I. P. Vs. Kailas Dattatraya Patil & Others (First Appeal No.1376 (with 1370 to 1375 and 1377 to 1380) of 2013 viz. Decided on 02.12.2013).*** According to the Hon'ble High Court, the market price ratio of lands according to their gradation should be as follows :

Type Land	Potkharab	Jirayat	Hangami Bagayat	Bagayat

Rate (P.H.)	Rs.1,00,000/-	Rs.2,00,000/-	Rs.3,00,000/-	Rs.4,00,000/-

35. As per said ratio, the approximate market price of jirayat lands within the revenue limits of village Manjrod and Hol was @ Rs.5,00,000/- per hector.

36. It appears that the land under sale instance situate within the limits of village Manjrod and Hol, whereas, the acquired land situate within the limits of village Piloda. Therefore, there is difference in locality in these two lands. This is first minus factor as regards to the lands under sale instance and acquired lands. Similarly, no direct evidence has come on record to show that the acquired lands are similar in quality with the lands under sale instance. This is second minus factor as regards to the lands under sale instance and acquired lands.

37. Therefore, there is dis-similarity as regards to location and quality of the land between the lands covered by sale deed and acquired land. This is dis-advantage attached to acquired lands. Therefore, while determining market value of the acquired land on the basis of guess work within the parameters of guidelines issued by Hon'ble Supreme Court, the value needs to be reduced proportionality for these minus factors and dis-advantages. It is settled that 15% deductions for one minus factor is permissible and justifiable. As such, the approximate market price or value of jirayat land within the limits of village Piloda comes to be Rs.3,50,000/- per hector (that is Rs.5,00,000/- 30% (1,50,000)= Rs.3,50,000/-) and the approximate market price or value of Hangami Bagayat land within the limits of village Piloda comes to be Rs.5,25,000/- per hector (that is Rs.7,50,000/- 30% (2,25,000)= Rs.5,25,000/-).

38. It is pertinent to note that as per recent Govt. Resolution

bearing No.शासन निर्णय क्र.संकिर्ण –09/2017/क.प्र.148/अ–2, दि.05.09.2018, the revenue and forest department of state of Maharashtra has taken decision to give 100% value to *pot-kharab* land as that of comparable land valuation while acquiring the same. As such, the value of *pot-kharab* land is equal to value of jirayat / bagayat land.

39. The applicants deposed that their lands were Bagayat. They were taking bagayat crop of in their lands. However, 7/12 extract of acquired lands shows that the applicants used to grow crop like Bajara, Cotton, Jawar etc. in the acquired lands. These crops are jirayat crops i.e. grow on rain water. The 7/12 extract also does not show that the acquired lands have any sort of facility of irrigation by water. Thus, it is clear from the 7/12 extract of acquired lands that these lands are jirayat lands. Moreover, the applicants have fairly admitted in their cross-examination that their lands are jirayat lands. Thus, it is also made clear from the statement of the applicant that the acquired lands are jirayat lands.

40. Thus, considering the above said evidence and with the guess work, it is established on record that the market value / price of acquired lands in the village Piloda was of Rs.3,50,000/- per hector as a jirayat land on the date of notification U/Sec.4 of the Act. The SLAO has awarded Rs.1,84,000/- Rs.2,26,000/-,Rs.3,15,000/- per hector for said lands. This shows that the compensation fixed by SLAO is inadequate. Therefore, I hold that the compensation awarded by SLAO is inadequate and the market value of acquired land on the date of notification U/Sec 4 of the Act is Rs.3,50,000/- per hector for jirayat land.

41. Thus, the rate determined by me as above will have to be applied to the acquired lands of the applicants. Therefore, I hold that, the market price of acquired land on the date of notification U/Sec.4 (1) of

the Act is of Rs.3,50,000/- per hector as jirayat land and *pot-karab* land. Hence, the compensation awarded by SLAO is inadequate and the award passed by him is without considering actual market price of acquired lands. Therefore, I recorded my findings to issue no.2 and 4 in LAR No. 116/2013 and issue no.1 and 2 in LAR No. 123/2013 in the affirmative.

AS TO ISSUE NO.3 in both LARS:

42. The applicants have filed these reference U/Sec.18 of the Act with objection that compensation awarded by SLAO is inadequate and they are entitled for the enhanced compensation. From the finding of issue No.2 and 4, it become clear that the compensation awarded by SLAO by his award is inadequate and the applicants are entitled for compensation of acquired lands @ Rs.3,50,000/- per hector. Therefore, I hold that the applicants are entitled to enhanced compensation. Hence, I recorded my finding to first part of issue no.3 in the affirmative in both LARS.

43. Hence, the applicants are entitled to enhanced and additional compensation in respect of acquired lands as per above said rate by deducting the amount already paid by SLAO. Under the scheme of the Act, they are also entitled for statutory solatium, component and interest on said enhanced market value of acquired lands. It is to be noted that in view of ratio laid down by Hon'ble Apex court in the case ***Sunder Vs. Union of India, reported in 2001(4) Mh.L.J. 859*** that solatium provided for under section 23(2) of the Land Acquisition Act forms an integral and statutory part of compensation awarded to a landowner. As per sec. 28 of the Act, interest is payable on compensation and not on market value. Solatium payable under section 23(2) forms part of compensation. Hence, interest payable on solatium as well as on additional compensation payable under section 23(1-A) of the Act. Therefore, the opponents will

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have to the interest on the enhanced compensation i.e. market value of acquired lands + solatium + component vide sec. 28 of the Act. Therefore, the applicants are also entitled to the interest on the enhanced compensation i.e. market value of acquired lands + solatium + component vide sec. 28 of the Act. Hence, I recorded my finding to second part of issue no.3 according in both LARS.

As to Issue No. 4 in LAR No 115/2013 :

44. Consequent to my finding to issue no. 1 to 3 in LAR No 123/2013 and issue no. 1 to 4 in LAR No 116/2013, it becomes clear that the reference applications deserves to be partly allowed. The applicants will have to pay the deficit court fees for this enhanced compensation. Hence, in the result, in answer to issue no.4 in LAR No 123/2013, I pass the following order.

-: O R D E R :-

1. The references are partly allowed with proportionate costs.
2. The opponents shall pay to the applicants the **additional compensation** jointly and severally for the acquired land as under :

Sr. No.	LAR No.	Block No.	Acquired Area (Hector - R)	Rate Per Hector
1	116/2013	4/1	03 R	Rs.3,50,000/-P. H.
2	123/2013	290/1	45 R p.k. 15 R	Rs.3,50,000/-P. H.

3. The compensation already paid by SLAO for the acquired land be deducted.
4. The opponents shall jointly and severally pay to the applicants the **component** @ 12% per annum on **enhanced market value** of

the acquired land for the period from 25.12.2010 (date of notification) till 24.03.2012 (date of award by SLAO) vide Sec.23 (1-A) of the Act.

5. The opponents shall further pay jointly and severally **solatium** of 30% on the **enhanced market value** of acquired land vide Sec.23 (2) of the Act.
6. The opponents shall further pay jointly and severally the interest to the applicants on aforesaid **enhanced compensation** including enhanced market value and solatium and component i.e. Enhanced market value of acquired land + Solatium + component @ 9 % per annum for the first year from the date of possession to the date of payment of enhanced compensation of the acquired land and if such payment is paid into court after the date of expiry of one year from the date on which possession is taken then @ 15 % per annum till the realization of entire amount vide sec. 28 of the Act.
7. The opponents shall further pay jointly and severally proportionate **costs** of the reference to the applicants vide Sec.27 (2) of the Act and shall bear their own costs.
8. The applicants shall pay deficit court fee for enhanced market value of acquired lands within 3 months of this order.
9. Awards be drawn up accordingly.
10. The original judgment be kept in LAR No.116/2013 and its true copies be kept in LAR No.123/2013.

(Pronounced in open Court.)

garad 1/6/2019

(S. H. Garad)
4th Jt. Civil Judge (S. D.),Dhule.

Dhule.
Date :- 01.06.2019.