

Land Acquisition Reference Case No. 350/2015.

Presented on	30.07.2015
Registered on	30.07.2015
Decided on	08.06.2026
Duration	10YY 10MM 10DD

IN THE COURT OF ADDITIONAL SENIOR CIVIL JUDGE, DHOLKA
AT AHMEDABAD (RURAL).

LAR No. 350/2015

Exhibit:

Claimants : (1) Musebhai Umarbhai
(2) Aiyubhai Musebhai
(3) Nurabhai Umarbhai
(4) Majabhai Umarbhai
(5) Mahmadbhai Umarbhai
(6) Gulambhai Shekhabhai
(7) Abdulbhai Shekhabhai
All R/o Village : Rupal, Ta : Dholka
Dist : Ahmedabad

V/S.

Respondents : (1) Executive Engineer Shri
(2) Second Special Land Acquisition Officer
Ahmedabad

Land Reference case under Section-18 of the Land Acquisition Act, 1894

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Appearance:

Ld Adv. for the Applicants: Mr. Umesh S. Patel

Ld Adv. for the Respondents: Mr. J.C. Patel, Asst. Govt Pleader for the state

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JUDGMENT

1. The claimants herein have filed the present Land Acquisition Reference case under Sec.18 of the Land Acquisition Act, 1984 (hereinafter referred to as "the Act") for enhancement of the amount of the compensation awarded by Special Land Acquisition Officer (hereinafter referred to as 'LAO') vide LAQ No.35/84, award dated 31.05.1988 in respect of the land belonging to the claimants bearing survey No.881 Paiki admeasuring 0-00-80 H.Are Sq. Mtr land situated at Mouje/Village : Rupal, Taluka Dholka, District Ahmedabad which is acquired for the purpose of Construction of dam feeder in the Rupal lake.
2. The claimants submitted in the application that their land has been acquired for the purpose of Construction of dam feeder in the Rupal lake. The claimants are dissatisfied with the award of the LAO and filed this LAR before this court. The claimants submit that, the land acquired from them is developed and Dholka-Bhavnagar highway is passing near to the acquired land. Further, the claimants submitted that the area from where the land acquired is having market, rice mill, paper mill, petrol pump, factories, borewell facilities etc. The claimants further submitted that the LAO has awarded compensation @ Rs. 2.50/- per Sq. Mtr. Hence, the claimants prayed for enhancement of award of compensation @ Rs. 25.00 and other reliefs as applicable interest, solatium and other costs.
3. This Court has issued a notice to the parties.

4. The Ld. AGP appearing for the state has appeared and submitted his written reply vide Exh. 10 in which he has contended that the rate awarded by the LAO is just and proper. The Ld. AGP further submitted that the LAO had fixed the award after taking into account of the location of each piece of land, prevailing market rates, type of land and other relevant factors like, level, development of the acquired land and sale instances of nearby area of the acquired land for the past five years from the date of publication of notice u/s 04 of the LA Act. He further contended that, the land acquired is situated at the interior village and is far away from Taluka Headquarters and the demand of the claimants are totally false and baseless. He further contended that the claimants have no right to file this petition as the award is just and proper. He then urged for dismissal of this application with costs.
5. Further, it is revealed from the record that the claimants have not remained present to proceed with the case since long.
6. The following issues were framed for determination of the case.

Sr.No.	Issues
1	Whether the applicant/s proves that the compensation awarded by Special Land Acquisition Officer is inadequate and not proper?
2	Whether the Applicant/s are entitled to get additional compensation? If yes, what amount?
3	What order ?

7. The reply of the above issues are as under:

1. Negative

2. Negative
3. As per final order

-:REASONS FOR THE DECISION:-

8. It is well settled fact that the reference application cannot be treated as a suit and the said reference cannot be dismissed for default for the simple reason that either party does not participate in the proceeding. (*"Khazan Singh v. Union of India" reported in AIR 2002 SUPREME COURT 726*).
9. At this stage, it is also required to be considered **Section-26** of the Land Acquisition Act, which reads as under;

26. Form of awards.—(1) Every award under this part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2, clause (2), and section 2, clause (9), respectively of the Code of Civil Procedure, 1908 (5 of 1908).

As per the Section, the award which the Court passes as a Reference Court must be in the form of a judgment containing the

statement of the ground for the award whether claimant or opponent participate in the reference proceeding or not.

10. Further, the *Hon'ble Supreme Court in "Khazan Singh v. Union of India" reported in AIR 2002 SUPREME COURT 726*, held that *"The reference made by a Collector under S. 18 of the Land Acquisition Act, 1894 cannot be dismissed for default. The provisions of Sec. 18, 20, 26 make it clear that the Civil Court has to pass an award in answer to the reference made by the Collector under S. 18 of the Act. If any party to whom notice has been served by the Civil Court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the concerned party. But non-participation of any party would not confer jurisdiction on the Civil Court to dismiss the reference for default"*.

Issue Nos. 1 & 2: The issues No. 1 & 2 have been discussed conjointly since they are interrelated with each other and to avoid repetition of the discussed fact and evidences.

11. In the present case, contentions of the references, the claimants have not produced any oral as well as documentary evidence. In fact, in spite of ample time given to the claimants, no evidence has been adduced. Further, the claimants have not participated in the reference proceedings and having knowledge of the reference proceeding was going on and the position of the claimant in a reference proceedings are **considered to be as that of plaintiffs in a suit** and the reference proceeding **shall be decided** as per the provision of Code of Civil Procedure in view of **Section-53** of the Land Acquisition Act which reads as under;

53. Code of Civil Procedure to apply to proceedings before Court.—*Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), shall apply to all proceedings before the Court under this Act.*

12. It is well-settled law that the burden of proof is upon him who affirms and not upon him who denies. In this case the initial burden is on the claimants to **prima-facie satisfy** the Court that the **award passed by the LAO is inadequate or disproportionate** and the applicants are entitled to more compensation than what has been awarded by the LAO. As discussed above, the claimants were not remained present and produced any oral or documentary evidence. The Hon'ble Apex Court has held in para-9 of its pronouncement namely "**Gafar v. Moradabad Development Authority**" reported in AIR 2007 SCW 5372 that....

*"As held by this Court in various decisions, the **burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more.** That burden had to be discharged by the claimants and **only if the initial burden in that behalf was discharged, the burden shifted to the State to justify the award.** The Reference Court, in our view, could not give any adequate or tenable reasons for adopting the value it did. **No evidence was clearly or properly discussed to justify a finding that the claimants had made out a case for enhancement of compensation.** As observed by the High Court, it appears that on the materials available, even the amount awarded by the Awarding Officer was on the high side*

since he adopted the sale instance of a small extent of land and applied it to the larger extents that had been acquired under these notifications even without any deduction".

13. Therefore, in view of aforesaid position of law, it is for the claimants to prove that the award passed by the LAO is inadequate and the claimants are entitled for enhancement of compensation over and above the award passed by the LAO under Section-11 of the Land Acquisition Act. In the present case, it is pertinent to note that, to prove the contentions of the references, the claimants had not produced any oral and documentary evidences.
14. It is also well settled fact that the award made by the Court in a reference proceeding shall not be less than the amount of award passed by the Collector under Section-11 of the Land Acquisition Act in view of Section-25 of the Land Acquisition Act which reads as under;

25. Amount of compensation awarded by Court not to be lower than the amount awarded by the Collector.—The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under section 11.

15. Further, at this stage, it is also required to consider Section-12, which is as under:

12. Award of Collector when to be final.—(1) Such award shall be filed in the Collector's office and shall, except as

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hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2)

As per the section, the award passed by the Collector under section-11 is final and conclusive as between the Collector and the persons interested **unless** it is altered or modified by the Reference Court.

16. Having considered the reasons mentioned in the award by the authority, to assess the valuation of the acquired land is seems to be **just** and **proper**. In contrary to that, no evidence has been adduced or produced by the claimants to prove their claim of enhancement of compensation. Therefore, this court is of the view that though, the claimants filed the reference within limitation, they have failed to prove this reference. In these circumstances, answers of issue Nos.- 1, and 2 are in negative.
17. So, having considered the above reasons and discussion, I pass the following final order on issue No-3 in the interest of justice.

::FINAL ORDER::

1. The above Land reference Application No. 350/2015 is hereby ordered to be disposed of as rejected without any interference to the compensation awarded by the Special Land Acquisition Officer to the claimants.

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2. Award be drawn accordingly.
3. There shall be no order as to cost.

Pronounced and signed in the open Court today on 08th day of June 2026.

Date : 08.06.2026

Place : Dholka

[N.B. Munshi]
Additional. Sr. Civil Judge,
Dholka @ Ahmedabad (Rural)

UIC No.GJ00735