

L.A.R No.6/18
ORDER BELOW EXH - 27

(1) This order pertains to the application filed by the interested parties/applicants (hereinafter referred to as "the Applicants") seeking a temporary injunction in the present Land Acquisition Reference (LAR) proceedings under Section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the Act"). The Applicants pray for restraining the Special Land Acquisition Officer (SLAO)/acquiring authority (GIDC) and the opponents (heirs of Late Manilal Chaturbhai Vaghela) from disbursing or receiving the compensation amount in respect of the acquired lands bearing Survey Nos. 371, 379, and 209 situated in Village Hirapur, Taluka Sanand, District Ahmedabad (Rural), until the final determination of the disputes regarding ownership, apportionment, and rights to compensation. The Applicants further seek a direction to deposit the compensation amount in a fixed deposit with a nationalised bank during the pendency of these proceedings and the related civil suit, and specifically pray for the deposit of the remaining compensation amount of Rs. 8,73,17,882/- as mentioned in the SLAO's order dated 23.08.2018 before this court.

(2) Briefly stated, the facts leading to this application are as follows. The lands in question, admeasuring approximately 2-66-08 Hectare-Are-Square Metres for Survey No. 371, 2-91-38 Hectare-Are-Square Metres for Survey No. 379, and 1-94-25 Hectare-Are-Square Metres for Survey No. 209, were acquired under the Act for industrial purposes by the Gujarat Industrial Development Corporation (GIDC). Notifications under Sections 4 and 6 of the Act were issued, and a regular award was passed by the SLAO under Section 11 on 31.01.2013 vide Award No. 2, determining the compensation at Rs. 28,87,318/-, which was deposited in the court in LAR Case No. 75/2013 under Sections 30 and 31 of the Act due to disputes over apportionment. The Applicants claim that these lands are ancestral joint family properties inherited from their common ancestor, Nathabhai Dhulabhai, and that they have been in joint possession and

cultivation through an oral family partition, despite the revenue records showing the name of Late Manilal Chaturbhai Vaghela as the sole recorded owner.

(3) The Applicants assert that they raised objections during the acquisition process and filed multiple civil suits, including Regular Civil Suit Nos. 189/2011, 92/2011, 497/2012, and 149/2013, asserting their co-ownership rights. Pursuant to a Memorandum of Understanding (MoU) dated 20.04.2013 executed between the Applicants and Late Manilal Chaturbhai Vaghela, the said suits were withdrawn on compromise, and a portion of the compensation from the initial award was disbursed to Late Manilal with the Applicants' consent, as recorded in the court's order in LAR No. 75/2013. However, disputes persisted, leading the Applicants to file Special Civil Suit No. 325/2016 (renumbered as 615/2017 after transfer to Sanand Court) seeking permanent injunction and declaration of rights based on the MoU. In that suit, no interim injunction was granted by the Principal Civil Court on 11.05.2017 at Exhibit-5, but the suit remains pending for adjudication.

(4) Subsequent proceedings ensued, including the Applicants' application at Exhibit-49 in the suit for enforcement, which was rejected on 27.04.2018, leading to Miscellaneous Civil Application No. 41/2018 before the District Court, Ahmedabad (Rural), where an order dated 09.07.2018 directed the SLAO to complete the inquiry within two months. The SLAO, after inquiry, passed an order on 23.08.2018 apportioning the compensation to Late Manilal Chaturbhai Vaghela. Aggrieved, the Applicants filed Special Civil Application No. 13901/2018 before the Hon'ble Gujarat High Court, which was disposed of on 30.09.2024 by a Division Bench comprising the Honourable the Chief Justice Mrs. Justice Sunita Agarwal and Honourable Mr. Justice Pranav Trivedi. The Hon'ble High Court, after detailing the background of the acquisition, the MoU dated 20.04.2013, the civil suits, and the interim orders, observed in paragraphs 8 to 10 that whether the Applicants are entitled to compensation as co-owners is a question to be decided by the civil court in the pending Special Civil Suit No. 615/2017, which was filed for permanent injunction and declaration based on the

MoU. The Hon'ble High Court held that the correctness of the SLAO's order dated 23.08.2018 (and the incidental communication dated 30.08.2018) cannot be examined under Article 226 due to disputed questions of fact requiring deliberation, which is not permissible in writ jurisdiction. It emphasized that the SLAO's order is a product of a summary inquiry under Section 11, passed pursuant to the civil court's directions in Exhibit-5 and the Hon'ble District Court's order in MCA No. 41/2018, and thus has no bearing on the Applicants' claims in the civil suit. The civil court is mandated to decide the suit strictly in accordance with law, independently examining the correctness of the SLAO's order without being influenced by any observations. The petition was disposed of with liberty to the Applicants to raise all issues before the civil court.

(5) The present reference under Section 18 of the Act has been made by the SLAO vide letter dated 01.10.2018, pursuant to the Applicants' application dated 29.08.2018 seeking enhancement of compensation and challenging the apportionment in favour of Late Manilal Chaturbhai Vaghela for the remaining amount of Rs. 8,73,17,882/-. The SLAO, while making the reference, has contended that the application is time-barred under Section 18(2) of the Act, as the original award was passed on 31.01.2013, notice under Section 12(2) was issued on 14.05.2013, and the application was filed beyond the prescribed limitation periods of six weeks from the award or notice, or six months from the award date. The SLAO has further stated that the order dated 23.08.2018 is not an amendment to the original award but an inquiry under Section 11(1) pursuant to the District Court's order dated 09.07.2018.

(6) In the present LAR under Section 18, initiated by the SLAO without depositing the enhanced compensation, the Applicants contend that they are proper interested parties under Sections 18, 30, and 31 of the Act, as their rights are affected by the acquisition and the pending disputes. They argue a prima facie case exists due to the MoU, the ongoing civil suit which is pending without any interim injunction having been granted, and the Hon'ble High Court's explicit directive that the SLAO's order has no bearing on the civil claims, which must be

decided strictly in accordance with law by the civil court, with liberty to examine its correctness in the pending suit. The Applicants submit that balance of convenience lies in their favour, as disbursement to the opponents would cause irreparable injury, rendering the suit and reference infructuous, especially since Late Manilal passed away on 15.10.2023, and his heirs are bound by the MoU under principles of estoppel.

(7) Per contra, the opponents (heirs of Late Manilal) in their reply at Exhibit 30 oppose the application, contending that the Applicants are not proper parties under Section 11 or 18 of the Act, as the revenue records and notifications under Sections 4 and 6 reflect Late Manilal as the sole owner. They assert that the compensation from the regular award has already been disbursed to them pursuant to the SLAO's inquiry order dated 23.08.2018, which was compliant with the Hon'ble District Court's direction in MCA No. 41/2018. The opponents accuse the Applicants of clever drafting and suppression of facts, claiming the application is not maintainable in LAR proceedings and should be rejected with costs, as a similar prayer for deposit was earlier refused in the civil suit.

(8) In their rejoinder affidavit at Exhibit 31, the Applicants refute the reply, alleging suppression of material facts by the opponents, including the existence of the MoU dated 20.04.2013, which binds the opponents under estoppel principles. They reiterate that the civil suit at Exhibit-5 remains pending without any interim injunction having been granted, and the Hon'ble High Court's order dated 30.09.2024 affirms that apportionment disputes must be resolved in the civil suit, treating the SLAO's order as non-binding summary proceedings. The Applicants emphasise that disbursement without deposit violates Sections 30 and 31 of the Act.

(9) Having heard the Ld. Advocates for both parties and perused the record, including the applications, replies, affidavits, connected documents, the SLAO's reference letter dated 01.10.2018, and the full text of the Hon'ble Gujarat High Court's judgment dated 30.09.2024 in Special Civil Application No. 13901/2018,

this Court proceeds to decide the injunction application on merits in light of the principles under Order XXXIX Rules 1 and 2 CPC and the provisions of the Land Acquisition Act, 1894, with due regard to the Hon'ble High Court's directives.

(10) At the outset, this Court must address its jurisdiction as the Civil Court hearing in LAR to grant the prayed injunction, while the related Special Civil Suit No. 615/2017 is pending before the Principal Senior Civil Court. Under Section 53 of the Act, the provisions of the Code of Civil Procedure, 1908 apply to all proceedings before the reference court, unless inconsistent with the Act. As a reference court under Section 18, this Court has the powers of a civil court to issue interim orders, including injunctions under Order XXXIX CPC, to preserve the subject matter of the reference—namely, the compensation amount—and prevent irreparable harm pending adjudication of apportionment or enhancement disputes. The pendency of the civil suit before the Principal Senior Civil Court, which deals with title and declaration based on the MoU, does not oust this Court's jurisdiction in the LAR, as the proceedings are distinct: the suit addresses underlying title, while the LAR focuses on compensation and apportionment. The Hon'ble High Court in SCA No. 13901/2018 has directed the civil court (in the suit) to examine the SLAO's order's correctness, but this does not preclude interim relief in the LAR to safeguard the compensation fund. Accordingly, this Court holds that it possesses the requisite jurisdiction to grant the injunction, subject to merits.

(11) Addressing the issue of limitation raised in the SLAO's reference letter dated 01.10.2018, wherein it is contended that the Applicants' application dated 29.08.2018 for reference under Section 18 is time-barred under Section 18(2), as it exceeds the limitation from the original award dated 31.01.2013 or notice under Section 12(2) dated 14.05.2013, this Court finds that the reference is maintainable and not barred by limitation. The SLAO's order dated 23.08.2018, passed pursuant to the District Court's directive dated 09.07.2018 in MCA No. 41/2018, constitutes a summary inquiry under Section 11(1) for apportionment, and the Applicants' challenge arises from this order, not the original award of

2013. As held by the Hon'ble Supreme Court in Dr. G.H. Grant vs. State of Bihar, AIR 1966 SC 237, the powers under Sections 18 and 30 are distinct; a reference under Section 30 (or inquiry under Section 11 leading to apportionment) can precede or trigger entitlement to seek enhancement under Section 18, and limitation under Section 18(2) commences from the date of knowledge or communication of the apportionment decision. Similarly, in Madan & Anr. vs. State of Maharashtra, (2014) 2 SCC 720, Section 18 applies to objections against apportionment in the award, while Section 30 addresses unresolved conflicting claims, allowing reference thereafter, with the right to enhanced compensation crystallizing post-apportionment. Here, the Applicants' knowledge and entitlement crystallized on 23.08.2018, and their application dated 29.08.2018 falls within the six-week period under Section 18(2)(a) or (b), rendering the reference timely.

(12) On merits, this Court finds that the Applicants have established a strong prima facie case. The MoU dated 20.04.2013, executed before a Notary and acted upon by withdrawal of earlier suits, prima facie evidences a compromise recognising the Applicants' co-ownership rights in the ancestral lands. The revenue records, though showing Late Manilal as owner, do not conclusively negate joint family claims, especially given the oral partition alleged and the pending civil suit No. 615/2017, where no injunction was granted at Exhibit-5 dated 11.05.2017, but the suit remains pending for adjudication. The Hon'ble High Court's detailed judgment dated 30.09.2024 in SCA No. 13901/2018 explicitly holds that the SLAO's order dated 23.08.2018 (and 30.08.2018) cannot be scrutinized under Article 226 due to disputed facts, treats it as non-binding on the civil suit, and directs that its correctness be examined in the pending civil suit by Civil Court strictly in accordance with law. Thus, the disputes over title, apportionment, MoU enforcement, and entitlement to the remaining compensation of Rs. 8,73,17,882/- are sub judice, warranting protection of the compensation fund to avoid any prejudicial disbursement.

(13) As regards balance of convenience, it tilts in favour of the Applicants. Disbursement to the opponents, who are bound by the MoU and estoppel (as Late Manilal acknowledged the Applicants' rights therein), would irreparably prejudice the Applicants if their claims succeed in the suit. Conversely, restraining payment and directing deposit causes no hardship to the opponents, as the amount can earn interest in a fixed deposit, preservable until final adjudication under Section 30, in line with the Hon'ble High Court's directive that the civil court must decide the claims without being influenced by the SLAO's summary findings.

(14) On irreparable injury, if the compensation is disbursed prematurely, the Applicants' rights under the MoU and Act may become illusory, especially since the opponents have already received part payment from the initial award with consent. The opponents' contention of non-maintainability is untenable, as interested parties under Section 18 can seek interim relief to safeguard the reference's purpose, particularly when the Hon'ble High Court has affirmed the civil court's primacy in resolving the disputes and granted liberty to examine the SLAO's order in the suit. Their allegation of suppression is belied by the record, which shows full disclosure by the Applicants.

(15) In view of the above, and considering the Hon'ble High Court's observations that the SLAO's order is merely summary and subject to examination in the civil suit, this Court is satisfied that the Applicants deserve interim protection on merits to preserve the status quo and ensure effective adjudication. Therefore, I pass the following order in the interest.

-:ORDER:-

1. The application for temporary injunction is hereby allowed on the following terms:-

(a) The Special Land Acquisition Officer/acquiring authority (GIDC) is hereby restrained from disbursing, by cheque, draft, or otherwise, the compensation

amount (including any enhanced amount and the remaining Rs. 8,73,17,882/- as per the SLAO's order dated 23.08.2018) in respect of Survey Nos. 371, 379, and 209 to the opponents (heirs of Late Manilal Chaturbhai Vaghela) or any person claiming through them, until final disposal of this LAR and the connected civil suit No. 615/2017 or further orders.

(b) The Special Land Acquisition Officer is directed to forthwith deposit the entire compensation amount in the Civil Court Sanad, which shall be invested in a fixed deposit with a nationalised bank for an initial period of one year, renewable thereafter, subject to the outcome of the proceedings. The interest accruing thereon shall abide by the final orders.

(c) The opponents are restrained from receiving or enforcing any claim to the compensation amount in violation of this order.

(d) This interim order shall operate until further orders and is subject to the final decision on apportionment under Section 30 of the Act,

(e) Copy of this order be sent to the SLAO and GIDC for compliance.

Pronounced in the open Court today on this 19th day of July, 2025 at Sanand.

Date: 19-07-2025

Place: Sanand.

(A.R. Ghori)

Additional Senior Civil Judge,
Sanand, Ahmedabad (Rural).

Judge Code No. GJ 00998.