MHJN020019162022	Presented on : 11-10-2022 Registered on : 11-10-2022 Decided on : 07-05-2026 Duration : 03 years, 06 months, 26 days

IN THE COURT OF 2nd JT. CIVIL JUDGE SENIOR DIVISION, JALNA, DIST. JALNA
(Presided over by Smt. Priti D. Taru)

L.A.R. No.77/2022 **Exhibit No. : 46**
LAQ/CR. No.189/2005

Parmeshwar Rambhau Kordhane
Age : 55 yrs., Occ. : Agri.
R/o. Sindhi Kalegaon, Tq. & Dist. Jalna. **...Claimant.**

VERSUS

1. The State of Maharashtra Through : Collector, Jalna.
2. The Special Land Acquisition Officer (Krushna Khore) Collector Office, Jalna. C/o. S.D.O. Office, Jalna.
3. The Executive Engineer, Minor Irrigation Division, Jalna. **...Respondents.**

....

For Claimant :- Mr. E. U. Shinde Learned Advocate.
For Respondent Nos.1 & 2 :- Mr. A. D. Mate Learned APP.
For Respondent No.3 :- Mr. J. C. Badave Learned Advocate.

....

JUDGMENT
(Delivered on 07th day of May, 2026)

This is a Reference under Section 18 of the Land Acquisition Act, 1894 (in short 'the Act') for enhancement of the compensation of the land acquired by the respondents, situated at village Sindhi Kalegaon, Tq. & Dist. Jalna.

Claimant case in brief is as under :

2] Claimant was the owner and possessor of the land bearing Gat No.346 admeasuring 00 H 39 R situated at village Sindhi Kalegaon, Tq. & Dist. Jalna (hereinafter referred as 'acquired land'). It is by Notification dated 03.01.2008 as per Section 4 of the Act, respondents initiated proceedings for acquisition of land for the purpose of Wanadgaon Sathwan Talav. The said purpose is inclusive of the acquired land. The Declaration under section 6 was published on 23.10.2008. Respondents taken possession of the acquired land.

3] Respondent has passed Award on 29.04.2010 as per Section 11 of the Act. Notice dated 27.08.2010 under Section 12 (2) of the Act was served upon claimant. It is on 03.09.2010, compensation amount received by claimant. A market value of the acquired land was fixed at the rate of Rs.1,250/- per R. Claimant has received amount Rs.48,750/- excluding solatium and interest thereon. A market value of the fruit bearing trees which was paid is inadequate. As such, claimant received less amount. Claimant accepted total compensation under protest. Hence, this Reference under Section 18 of the Act, for enhancement of the compensation.

4] According to claimant, the acquired land having high potentiality, fertility and was fully irrigated. Claimant was having good income out of acquired land. At the relevant time, value of the other lands in the similar vicinity as of acquired land was much more than the compensation so awarded. Respondent No.1 failed to consider these aspects. The compensation was awarded at very low rate. Hence, prayed for enhanced compensation amount alongwith interest thereon, and other consequential reliefs as per provisions of the Act.

5] Respondent Nos.1 and 2 resisted the claim by filing written statement vide Exh.06. Respondent Nos.1 and 2 specifically admitted acquisition of land. They have followed procedure as per Section 4, section 6, section 11 and section 12 (2) of the Act. According to respondents, they have followed the provisions as per the Act. The Award so passed is legal, just and proper.

6] Respondent No.3 resisted the claim by filing written statement vide Exh.10. Respondent No.3 raised objection as to limitation. The compensation was granted as per actual market value and area of the acquired land, it's potentiality and productivity. There was no error while passing Award. The compensation so granted is adequate.

7] Both parties adduced evidence.

8] Heard Mr. E. U. Shinde, the learned advocate for claimant. Heard Mr. A. D. Mate, the learned APP for respondent Nos.1 and 2. Heard Mr. J. C. Badave, the learned advocate for respondent No.3.

9] On the basis of pleading, Issues are framed vide Exh.11. Those Issues are reproduced as under and I have recorded my findings against each of them for the reasons discussed below :-

Sr. No.	**ISSUES**	**FINDINGS**
1.	Whether claim is within limitation ?	Yes.
2.	Does claimant proves that compensation awarded by the respondents is inadequate ?	Yes.
3.	Is claimant entitled to enhance compensation ? If yes, what rate ?	Yes. For fully irrigated land @ of **Rs.9,906/-** per R. For Fruit bearing Trees **Rs.9,97,296/-**.
4.	What Order and Award ?	Reference is partly allowed.

REASONS

As To Issue No.1 :-

10] Claimant Parmeshwar Rambhau Kordhane has adduced evidence on affidavit (CW-1) (Exh.15) and stated that, notice under section 12 (2) of the Act had been received by claimant on 03.09.2010. The reference has been filed on 13.10.2010. Thus, initial onus has been discharged by asserting facts on oath. Once the initial onus is discharged, it is for the respondents to prove the otherwise, as held in **Premji Nathu Vs. State of Gujarat and Anr. reported in 2012(5) SCC 250.** No such evidence brought on record on behalf of respondents. Thus, it means that objection has been raised within 6 weeks from the date of knowledge, as per section 18 (2) of the Act. Thus, Reference (Exh.01) is well within limitation. For this reason, I have answered Issue No.1 in affirmative and recorded my finding accordingly.

As To Issue Nos.2 and 3 :-

11] These issues are co-related to each other because the acquired land is inclusive of trees. It is necessary to determine their market value in view of section 23 of the Land Acquisition Act. Thus, it is proper to discuss them under one head.

12] Claimant (CW-1) has stated in his evidence (Exh.15) that, claimant was the owner and possessor of the acquired land. Claimant received Notice under section 12 (2) of the Act, on 03.09.2010. Claimant received compensation amount under protest. Claimant came to know that, the compensation amount was granted at the rate of Rs.1,250/- Per R, which is too low of the value of the acquired land. The acquired land was considered as dry land.

13] Claimant (CW-1) has further stated that, the acquired land was fully irrigated and fertile land. Claimant was receiving income amount Rs.1,00,000/- to Rs.2,00,000/- per acre per annum out of the acquired land. Claimant reaped cash crops like cotton, sugarcane, wheat, jowar, tur and so on. 7/12 extract of the acquired land (Exh.17) shows the cultivation of crops and the source of water. The acquired land was inclusive of one Well. Respondent No.1 has not only failed to consider these aspects, but has also committed error while passing Award.

14] Claimant has stated in his evidence that, he accepted compensation amount under protest. It has been argued on behalf of respondents that, claimant has no document to show that, objection was raised at the relevant time while accepting the amount. It appears from record that, the Reference has been forwarded to the Court, in view of Letter dated 08.08.2022, from which it clearly appears that, the claimant has filed objection dated 02.03.2022 before respondents. Forwarding this Reference itself shows that, he had objection about determination of market value of land; as held in **Ajitsingh v. State of Punjab reported in (1994) 4 Supreme Court Cases 67.** Therefore, it can be inferred that, claimant accepted compensation under protest. Thus, the argument so advanced by respondents can not be considered.

15] Learned advocate for claimant has vehemently argued that, claimant is entitled to enhanced compensation as he has examined himself and the Expert witness. Learned advocate prayed for considering sale deed (Exh.16). Learned advocate further prayed for considering the valuation as determined in LAR No.83/2022 (Ganesh Vs. State); which arose out of same Award. Learned advocate pointed out the evidence of Expert witness (CW-2) and relied upon valuation report and relevant documents.

16] Learned APP has argued that, the Award passed by respondent is correct one. All factors are taken into consideration. The acquired land is dry land. Adequate compensation was already paid for land. Claimant is not entitled to enhanced compensation.

17] Learned advocate for respondent No.3 supported the argument advanced by learned APP on behalf respondent Nos.1 and 2. Learned advocate relied upon Written Notes of Arguments (Exh.45).

18] The most reliable way to determine the market value is to rely upon the instances of sale of portion of the same land as has been acquired or adjacent lands made shortly before or after Notification under section 4 of the Act. To show bonafide transactions regarding sale deed (Exh.16), claimant did not examine purchaser. The said documents are certified copies which can be accepted as per section 51A of the Act. This sale deed is helpful for the determination of market value of the acquired land. It appears that the aforementioned sale deed had been referred in the Judgment and Award passed in LAR No.83/2022. This sale deed is taken into consideration for the determination of market value of the acquired land.

19] However, the claimant has prayed for deciding the value of land in terms of parity as per Judgment and Order in LAR No.83/2022 (Ganesh Vs. State). Perusal of this judgment shows that, lands are situated in the same village and were acquired for the same purpose, under the same notification and thus claimant is entitled to compensation at the same rate, on the ground of parity, as held in **Bayaji**

Tatya Kalunge Vs. State of Maharashtra reported in 2006 SCC OnLine Bom 979.

20] Now, it is necessary to see the nature of acquired land. The claimant (CW-1) has stated in his evidence that, the acquired land is irrigated land. Claimant reaped crops like cotton, sugarcane, wheat, jowar, tur and so on. It has been suggested to the claimant (CW-1) in his cross-examination that, the acquired land was cultivated only on seasonal rains. Witness (CW-1) denied the aforementioned suggestion and relied upon 7/12 extract (Exh.17) to support his contention. The said document shows entry as to crops, which shows that, the acquired land was cultivated one. It also appears that the acquired land was inclusive of Well as a source of water for cultivation, in view of Annexure-16 which is a chart of joint measurement conducted by Taluka Inspector of Land Records, Jalna (Exh.40). Considering the nature of crops as kharip crops and the existence of Well as appears from 7/12 extract; it shows that the acquired land was fully irrigated.

21] However, claimant has prayed for deciding the value of land in terms of parity as per Judgment and Order in LAR No.83/2022. Perusal of this judgment shows that, amount Rs.4,953/- had been fixed for dry land. The value of irrigated land would be double of the amount of dry land. As such, the respondents ought to have valued the acquired land for amount Rs.9,906/- per R. Award (Exh.20) shows less value. Thus, compensation so awarded is improper and inadequate. The claimant is entitled to the enhanced compensation amount at the rate of

Rs.9,906/- per R for the acquired land.

22] Claimant has come up with the case that, respondents failed to give compensation of the fruit bearing trees. According to claimant, there were 60 Pomegranate trees. To prove the existence of the trees, claimant examined panch witness Shri. Karbhari Rambhau Kharjule (CW-3) (Exh.37) and the valuer Shri. Nandkumar Ganpatrao Patil (CW-2) (Exh.26).

23] Panch Shri. Karbhari (CW-3) has stated that he witnessed the existence of 60 Pomegranate trees along with existence of Well and pipeline upon the acquired land. He has knowledge about the acquisition of land in view of measurement so conducted on 22.09.2008. This panch witness is the owner of adjoining land. He acted as panch to the spot inspection conducted by witness Shri. Nandkumar (CW-2). This witness (CW-3) has stated that panchanama (Exh.34) was drawn before him. The contents were read over to him. He signed the panchanama alongwith other witnesses. He admitted the contents of panchanama as true and correct.

24] Witness Shri. Nandkumar (CW-2) is Approved Valuer (category 'Agricultural Lands') (Exh.31). He holds Degree of Master of Science (Agriculture) (Exh.28). He holds 30 years of experience. He holds training certificate in the faculty of agriculture (Exh.29 and 30). This witness (CW-2) has stated that, the claimant moved an Application dated 10.08.2008 (Exh.18) for valuation of fruit bearing trees upon Gat

No.346 situated at village Sindhi Kalegaon, Tq. Dist. Jalna. He has produced relevant document of the aforementioned Gat number. This witness (CW-2) visited the acquired land as aforementioned, as on 26.09.2008 (Exh.32). This witness conducted measurement of trees, calculated age, height, extension limit etc. of the fruit bearing trees. He maintained notes to that effect (Exh.33). He drew Spot Panchanama (Exh.34) in presence of claimant and one of the panch witness Shri. Karbhari Rambhau Kharjule (CW-3).

25] Witness Shri. Nandkumar (CW-2) has further stated that, for the purpose of valuation he relied on Government GR and the other relevant notification and circulars. He also relied upon the rates for the acquired adjoining lands as per chart of Agricultural Produce Marketing Committee, Solapur (Exh.27). He issued Expert Report (Exh.35) and Valuation of fruit bearing trees (Exh.36). He has adopted Ring Method, Miram's Table and the Resolution issued by Government. It is on the basis of the aforementioned material, this witness has valued the fruit bearing trees and issued Valuation Report. According to this witness (CW-2), the value of per Pomegranate trees ought to have been Rs.20,777/-.

26] It has been suggested to this witness (CW-2), in his cross-examination that, fruit bearing trees were not in existence upon acquired land. This witness has admitted that, he had not gone through the valuation of fruit bearing trees, as fixed by the Department of Government.

27] It is material to note that, the qualification, the status, the experience and the procedure adopted for the purpose of valuation followed by Expert Witness Shri. Nandkumar (CW-2) remained unchallenged. Mere admission that, this witness failed to go through the panchanama drawn by acquiring body would not prove helpful to the respondents; unless that panchanama is brought on record and proved to be authenticate document. Neither such document is placed on record nor anything contrary is placed on record to doubt the Valuation Reports (Exh.35 and 36). It also appears that the acquired land was inclusive of fruit bearing trees, in view of Annexure-16 which is a chart of joint measurement conducted by Taluka Inspector of Land Records, Jalna (Exh.40). Thus, it is proved that, their was existence of fruit bearing trees at the time of acquisition land. In view of this, the Expert Witness evidence is held reliable.

28] As per ratio laid down in ***Chinda Fakira Patil Vs. The Special Land Acquisition Officer, Jalgaon (Supreme Court) in CIVIL APPEAL NO.5475 of 2007*** and the ratio laid down in ***Vitthal Damodar Patil Vs. The Special Land Acquisition Officer, Jalgaon (Bombay High Court Bench at Aurangabad) in FIRST APPEAL NO.2536 of 2015*** dated 26.10.2015. Both the aforementioned authorities are about valuation of the fruit bearing trees. 20% deduction of the valuation made in the report, is considered as general principle.

29] To sum up, it is clear that, as per report the valuation of 60 Pomegranate trees is estimated as Rs.12,46,620/-. Thus, total calculation of the aforementioned fruit bearing trees valued as **Rs.9,97,296/-**. Applying the 20% deduction principle as held in aforementioned cases cited supra, the valuation of fruit bearing trees be calculated accordingly. Thus, the claimant is entitled for amount **Rs.9,97,296/-** for fruit bearing trees.

30] For all the aforementioned reasons, I have answered Issue No.2 in affirmative and Issue No.3 is answered in terms of rates; **Rs.9,906/-** per R for fully irrigated land admeasuring 00 H 39 R and **Rs.9,97,296/-** for fruit bearing trees, belonging to claimant. As such, I have recorded my findings accordingly.

<u>As to Issue No.4</u> :-

31] In the result following order is passed:

<u>ORDER</u>

1] Reference is partly allowed with costs.

2] Respondents shall pay enhanced compensation at the rate of **Rs.9,906/-** per R for acquired land Gat No.346 admeasuring 00 H 39 R and **Rs.9,97,296/-** for fruit bearing trees, at village Sindhi Kalegaon, Tq. Dist. Jalna; after deducting amount of compensation which, already received by claimant.

3] Respondents shall pay component at the rate 12% as per section 23 (1A) of Land Acquisition Act, 1894 to the claimant, for the period commencing on and from the date of Publication of the Notification under section 4

(1) to the date of passing Award or the date of taking possession, whichever is earlier.

4] Respondents shall pay solatium at the rate 30% as per section 23 (2) of the Land Acquisition Act, 1894 on the enhanced compensation, by deducting the amount, if already paid.

5] Respondents shall pay interest at the rate of 9% per annum on enhanced compensation, for the first year from the date of Award and at the rate of 15% per annum for subsequent years till the date of realization of entire amount, as per section 28 of the Land Acquisition Act, 1894.

6] Respondents shall pay to the claimant interest under section 34 of the Land Acquisition Act, 1894, on the amount awarded by S.L.A.O.

7] The claimant is entitled to recover amount of compensation after depositing the deficit court fees on the amount of compensation, if required.

8] Respondents shall pay cost of litigation to claimant.

9] Award be drawn up accordingly.

PRITI DATTATRAY TARU

Digitally signed by PRITI DATTATRAY TARU
Date: 2026.05.07 12:59:12 +0530

Place :- Jalna
Date :- 07/05/2026

(Smt. Priti D. Taru)
2nd Jt. Civil Judge, Sr. Dn.,
Jalna.

CERTIFICATE

I affirmed that the contents of this P.D.F. file judgment are same, word to word, as per the original judgment.

AMAR RAVISHCHANDRA GADADE
Digitally signed by AMAR RAVISHCHANDRA GADADE
Date: 2026.05.07 13:02:16 +0530

Name of the Stenographer	:	Amar R. Gadade, Stenographer (Grade-III)
Court	:	2nd Jt. CJSD, Jalna, Dist. Jalna.
Date	:	07/05/2026
Judgment signed by the presiding officer on	:	07/05/2026
Judgment uploaded on	:	07/05/2026