

MHLA170026302023



Received on :- 26/11/2018.
Registered on :- 28/11/2018.
Decided on :- 29/04/2026.
Duration :- 07Y. 05M. 03D.

**IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION,
AT AUSA, DIST. LATUR.**
(Presided Over By :- P. I. Mokashi)

**Land Acquisition Reference No. 538/2018.
Exh. No.33.**

1. Pandurang Vishwanath Birajdar,
Age :- 56 Years,
Occupation :- Agriculturist.
2. Sow. Sunanda Pandurang Birajdar,
Age :- 52 Years,
Occupation :- Agriculturist,
Both R/o. Banegaon, Taluka AUSA,
District :- Latur.

.....**Petitioners.**

Versus

1. State of Maharashtra,
Through Collector, Latur.
2. District Resettlement Officer,
Collector Office, Latur.
3. Special Land Acquisition Officer,
(Old P.T. and I.T.) Now,
Sub-Divisional Officer,
AUSA _renapur (Old Collector Office),
at Latur.

.....**Respondents.**

Appearance :-

Shri. D. K. Jadhav, Advocate for Petitioners.

Shri. L. N. Shinde, A.G.P. for Respondent Nos.1 to 3.

J U D G M E N T

(Delivered on 29th April, 2026)

This is reference filed under section 18 of the Land Acquisition Act, 1894 for enhancement of compensation amount granted by Special Land Acquisition Office.

2. It is the case of petitioners that, they are exclusive owner and possessor of Survey No.20/1-2 situated at village Banegaon, Tq. Ausa, Dist. Latur. Out of the said land the land ad-measuring 09H 43R land is acquired for rehabilitation of villagers of village Banegaon, Tq. Ausa, Dist. Latur due to the earthquake which occurred on 30/09/1993. Respondent No.2 submitted proposal for acquisition of land on 05/04/1994 to respondent No.3 The publication is published in daily news paper Latur times and Rajdharma on 09/01/1994 and 10/01/1994 respectively. Respondent No. 3 submitted proposal for acquisition of land vide his letter No. 1993/भूकंप/नवसन dated 05.04.1994 to Special Land Acquisition Officer P.T. and LT Latur bearing No. 1994/LNQ/CR/1, dated 06.01.1994, in Government Gazette on 07.01.1994, and in village 12.01.1994. Local publication is published in daily Latur times and Rajdharma on 09.01.1994 and 10.01.1994 respectively. The acquired land comes under the jurisdiction of S.D.O. Ausa-Renapur, at Latur. Therefore, he is made respondent No. 3 in this proceeding.

3. Petitioner further submits that, petitioner No. 1 was Sarpanch of village Banegaon, Tq. Ausa, at the time of earthquake and acquisition of land. Petitioners have seen thousands of deaths occurred in the earthquake of 1993. Government was in hurry to construct the houses for the earthquake affected persons. People were facing so many problems. The then Chief Minister immediately rushed to the center place of earthquake Killari and in the meetings of Executives, he advised to take consent of the land owners whose land are acquired for the purpose of rehabilitation. The officers of Government approached to petitioners and requested to give consent for acquisition of land. Petitioner No.1 was knowing the difficulties of earthquake affected families, therefore he gave consent for acquisition of land on the humanitarian grounds, considering that Government give take the legal compensation of the acquired land.

4. Petitioner further submits that, After receipt of notice under Section 4 of Land Acquisition Act, petitioner No.1 approached respondent No.3 and orally requested to grant compensation of acquired land at the rate of Rs. 10/- per sq. feet. Considering the N.A. potentiality, suitability, quality, situation and vicinity of acquired land. At the time of notification under Section 4, Agricultural Land was sold at the rate of Rs. 7,00,000/- per Acre. The sale transactions took place at this rate in the village and in the surrounding area in the vicinity of the acquired land. The petitioner No.1 also requested to grant compensation of three mango trees in the acquired land at the rate of Rs. 1,00,000/- per tree. Petitioners

were taking the benefit of mango trees and earning Rs. 25000/- per mango tree per year.

5. Petitioner further submits that, respondent No. 3 called sale data from Sub-Registrar's office AUSA and fixed the value of acquired @ Rs. 29,000/- per Hectare and passed the award on 28.03.1994. Three big mango trees were in the acquired area, respondent No. 3 has paid the compensation amount of Rs. 22,092/- for three Mango trees. According to petitioners, the compensation of acquired land is fixed as per the opinion and recommendation of respondent No.2 and it is being wrongly projected that, petitioners have consented for the compensation. In all petitioners have withdrawn the amount of Rs. 3,97,905/- under protest from respondent No.3 and immediately filed reference U/Sec. 18 of the Land Acquisition Act, on 13.07.1994, because the compensation awarded was inadequate. Petitioners have not accepted the award. The reference filed by petitioners is rejected by the respondent No.3 on the ground that, petitioners have given consent for acquisition of land and accordingly consent award is passed. Therefore, they are not entitled for the enhancement of the compensation. In fact, petitioner No.1 has given consent for acquisition of land only. He has not given any consent for particular rate of compensation as projected by respondents. Petitioner No. 1 got knowledge on 26.04.1999 that, his reference U/Sec. 18 is rejected by respondent No.3. Petitioner No.1 approached to the office of respondent No. 3 and filed an application for certified copy of order. Petitioner Nos.1 and 2 filed a Writ Petition No. 6135/99

before the Honourable High Court of Judicature of Bombay, Bench at Aurangabad, challenging the order of rejection of reference U/Sec. 18 of the Land Acquisition Act. Petitioners further submit that, petitioner No.1 has given consent for acquisition of land only and he has not consented to acquired land without consideration. Respondent No. 3 has no jurisdiction to reject the reference filed by petitioners. It is duty of respondent No. 3 to refer the reference to the court for enhancement of compensation amount.

6. Petitioner further submits that, the Honourable High Court has allowed the Writ Petition No. 6135/99 filed by petitioners relying on the judgment of CRA-8/2002, to 17/2002, dated 26.04.2002 Rajendra Narsing Ghodke and others...vs... State and others with following directions.

- A] The petitioners are at liberty to move a reference application to the Dist. Collector, Latur, within six weeks from today so as to be transmitted to the L.A.R. Court.
- B] As this petition was listed for admission for the first time after December vacations of 2003, these petitioners would be entitled for simple interest @ Rs. 3% from Jan. 2003, till the passing of this order, in the event they succeed in their L.A.R. proceeding U/Sec. 18, purely on the enhanced compensation amount.
- C) From the date these petitioners makes a fresh application before the Dist. Collector, Latur, they would be entitled to regular interest, component, if they succeed in getting enhancement in the said proceeding.

- D) All the contentions of the litigating sides including the contention of the acquiring body that, a consent award was delivered, are left open to the LAR court to consider them on their merits.
- E) Needless to say petitioners would not be entitled for any interest component on the enhanced amount from July 1995 till December 2000.

7. Petitioner further submits that, present reference petition under Section 18 of Land Acquisition Act is filed as per the order of the Honourable High Court for enhancement of amount of compensation prevailing at the time of notification under Section 4 of Land Acquisition Act i.e. 12.01.1994. Respondent No. 3 wrongly rejected the reference under Section 18 of Land Acquisition Act contending that, award is passed under Section 11(2) of the Land Acquisition Act. Petitioners have not entered into any agreement with respondent. Petitioner No.1 has only given consent for acquisition of land. Petitioners have not entered into negotiations as regards to the price of the land. The market price of acquired land to be fixed to the tune of Rs. 29,000/- per Hecter on the basis of sale data collected from Sub-Registrar's office, AUSA. The document shows that, petitioner No. 2 was not available for signing the document. Therefore, the alleged award passed cannot be said to be consent award in view of Clause-8 in the notification dated 29.10.1993 issued by the Revenue and Forest Department of Government of Maharashtra. The said clause laid down a guideline that, if any of the person interested is not available while preparing

consent award, there can be a difficulty in preparing such consent award and in circumstances the acquisition proceedings should proceed according to the usual method i.e. Collector should proceed acquisition under urgency clause and even by publication of notification under Section 4 and 6 of Land Acquisition Act simultaneously.

8. Petitioner further submits that, the acquired land is suitable for the residential purpose. More particularly the acquired land situated near the old village. Therefore, Government has chosen to acquire the said land. The purpose of acquisition is relevant factor for determining the market value. The acquired land is having building potentiality. This itself would be sufficient to the conclusion that, the land acquired is to be valued as a non-agricultural land considering location, situation and vicinity where the land is located considering quality, quantity and fertility of land. Rehabilitation of more than 75,000/- villagers is made by acquiring the lands in Ausa, Nilanga Taluka of Latur District. The Honourable District Court and Civil Judge (S.D.) Courts have granted compensation for acquired lands more than Rs. 10/- per square feet. The village Banegaon, Tq. Ausa is situated on the road of Ausa-Nagarsoga, Dapegaon, Jawalga, Haregaon, Limbala, Mangrul road. The village Banegaon is having population of 1000, High school V.V.K.S.S. society, independent Grampanchayat, Electricity, permanent water supply scheme is available in the village. Distance of acquired land from the Taluka place is 15 Kilometer. All facilities of transportation are available in village.

S.T. buses of M.S.R.T.C. are also available, which goes ahead towards Killari, Makani, Sastur, Lohara, up to National High Way No. 9 Bombay-Hyderabad road. Prior to the acquisition of land, the vacant portions of land in the village were sold at the rate of Rs. 30/- per square feet. The possession of acquired land is taken by private negotiations by the Government and immediately Government started the construction work in the acquired land by laying plots, roads, etc.

9. Petitioner further submits that, the entry of acquisition of land is taken in 7/12 extract of land Survey No.20/1-2. The names of Petitioners are deleted from the column of ownership in the 7/12 extract by mutation entry No. 372 dated 16.12.1994. Petitioners claim the compensation of acquired land Survey No. 20/1-2, admeasuring 9 H. 43 R. @ Rs. 10/-per square feet calculated, as under:-

A) i) Area acquired 9 H.43 R. Which comes to 1089 X 943 =	1026927 sq.ft.
20% deductions for development of land	205385 sq. ft.
Total potable area	821542 sq.ft.
B) i) Compensation claimed @Rs. 10/- per sq.ft. Comes to	Rs. 82,15,420/-
ii)Amount withdrawn under Protest form respondent No.3 Including 3 mango trees.	Rs. 3,97,905/-
	Rs. 78,17,515/-
C) Market price of three Mango trees Rs. 100000 Each	Rs.3,00,000/-
Balance amount recoverable From respondents.	Rs. 81,17,515/-

10. Petitioner further submits that, they are also entitled to get compensation of acquired land and three mango trees including the statutory benefits as per the provisions of Land Acquisition Act i.e. 30% solatium, 12% increase, 9% interest for first year and 15% interest till the realization of the amount. Without prejudice above contentions, petitioner submits that, if the acquired land is considered Agricultural land, then the market price of acquired land be granted at the rate of Rs. 7,00,000/-per Acre. Petitioners prayed that, their reference be allowed. The award passed by respondent No.3 be declared as without consent award. The market price of the acquired land be determined or fixed and cost of petition be awarded.

11. Respondent Nos. 1 to 3 have filed their written statement at Exh-9. They submits that, the entire contents of the reference petition except the acquisition of the alleged land of petitioners and passing of the award in that regard by the concerned respondent No.3 are disputed. The other contents mentioned in reference petition are denied by the respondents totally. However, the entire burden is on petitioners to prove the said contents by placing strict proof and cogent documentary evidence on record.

12. Respondent further submits that, respondent No. 3 visited the spot of alleged acquired land and considered all aspect from the vicinity i. e. situation, location, quality, quantity, fertility, productivity and potentiality of the acquired land. Not only this, but

respondent No.3 had considered the "sale instances" from the vicinity of acquired land and also the sale instances produced by petitioners before passing the award and thereafter obtained the "Price-index" from the concerned "Sub-Registrar Office" about the relevant sale instances from the locality of the acquired land and thereafter rightly passed the award under Section 11 of the Land Acquisition Act and awarded the most reasonable, proper and adequate compensation to petitioners for the acquired land. Respondent further submits that, after getting the knowledge and receipt of the notice of award, petitioners had withdrawn the compensation award without any protest and with free consent. Therefore, the question of enhancement of compensation of acquired land does not arise.

13. Respondent further submits that, the allegations of petitioners that, respondent No.3 has relied upon the revenue assessment of the land in question. Respondents in this regard submits that that respondent No.3 has called the "sale instances from the vicinity of the acquired land and also "Price-index prior to three years from the date of notification and also considered "ready reckoner" while granting compensation to petitioners of acquired land. The compensation as awarded by respondent No.3 is just and proper considering all the relevant factors which ought to be have taken for consideration for determining the reasonable market price of petitioners acquired land on the date of notification under Section 4 of the Land Acquisition Act.

14. Respondents further submits that, the allegations that the acquired land of petitioners is having NA. potential is false and baseless. However, the respondents in this regard submit that the acquired land in question is far away from the Latur city. It is denied that, the acquired land is situated adjoining to the Municipal limit of Latur. The award is most reasonable, but petitioners without any documentary proof have claimed the enhanced compensation and therefore the same deserves to be dismissed with costs.

15. In view of above facts averred by petitioners and denied by respondents issues are framed at Exh.11/1. I have reproduced said issues along with my findings thereon for the reasons as follows:-

SR. NO.	ISSUES	FINDINGS
1.	Whether petitioners prove that, compensation awarded to them by Special Land Acquisition Officer is inadequate?	Yes.
2.	Whether petitioners prove that, they are entitled for enhanced amount of compensation? If yes, then to what extent?	Rs.5,000/- per R.
3.	Is award passed by respondent No.3 (Spl.Land Acquisition Officer) dated 28.03.1994 bearing No. 1994/LNQ/ CR/1 is with consent?	No.
4.	What is the price of acquired land?	Rs.5,000/- per R.

5. What order and decree?

As per final
order.

Evidence produced on record by the parties to the petition :-

16. In support of their contention petitioners have filed certified copy of award at Exh.24, certified copy of Writ Petition No.6135/1999 at Exh.25, copy of 7/12 extract of survey No. 20/1-2 at Exh. 26, mutation entry extract at Exh. 27, copy of judgment in L.A.R. No. 57/1995 at Exh. 28, copy of judgment in L.A.R. No. 41/2016 at Exh. 29.

Petitioners have further filed examination-in-chief of Pandurang Birajdar (PW1) at Exh. 14. Petitioners have filed evidence close pursis at Exh.30.

17. Respondents have not filed any oral or documentary evidence in support of their contention. They have filed evidence close pursis at Exh.31.

REASONS

AS TO ISSUE NO. 1 :-

18. The learned counsel on behalf of petitioners argued that being aggrieved and dissatisfied with the award passed by Land Acquisition Officer, petitioners have filed this reference petition under section 18 of Land Acquisition Act, 1894. He argued that, the compensation awarded by Special Land Acquisition officer to petitioners for acquisition of their lands is very inadequate. Petitioners have withdrawn compensation amount under protest. As

per the directions of the Honourable High Court in Writ Petition No. 6135/1999 (Exh.25) petitioners have filed this reference before this Court for deciding the controversy that, the land acquired by the Government was with consent of petitioners or not and whether the compensation awarded for acquisition of land is adequate or not.

The learned counsel for petitioners further argued that, consideration the situated of earthquake the villagers of Banegaon village were homeless. There was urgent requirement of land for their rehabilitation. Hence, petitioner No. 1 had only consented to acquisition of land for rehabilitation and not compensation. Therefore, petitioners have claim enhance compensation from respondents as compensation granted by respondents to petitioners is inadequate. The learned counsel for petitioners has filed previous judgments passed by the Court in L.A.R. No. 57/1995 (Exh. 28) and L.A.R. No.41/2016(Exh.29). These references were regarding acquisition of land for the purpose of rehabilitation and resettlement of earthquake affected people of village Dapegaon, which is situated next to the village of Banegaon. Hence, it is prayed by the learned counsel for petitioners that, the reference of petitioners be allowed by enhancing compensation amount to the extent of Rs.81,17,515/-. He further prayed that, the award passed by respondent No. 3 is declared as award without consent.

The learned counsel for petitioners also filed his written argument (Exh. 32) on record.

In support of his argument the learned counsel for petitioners has relied on the case of *State of M.P. Vs. Man Mohan Swaroop*,

AIR 1966 Madhya Pradesh 270 (Vol.53, C.68). It is held by the Honourable High Court that,

A) Land Acquisition Act (1 of 1894), S.23(1) - Assessment of compensation - Merely on the ground that land was being used as agricultural land till the time of acquisition, its potentiality as non-agricultural land cannot be ignored - Ordinarily valuing large areas on the basis of small area sales and vice versa is wrong- Yet such a basis can be adopted looking to the entire circumstances of the case- General principles of assessment stated.

He further relied on the case of *Mohammad Raofuddin Vs. Land Acquisition Officer, 2010 LAC 690 (SC)*. It is held by the Honourable Supreme Court that,

Land Acquisition Act, 1894-Section 23 and 24- Acquisition of land - Compensation for - Fixing of market value - Sale instance nearer to date of notification vis-a-vis one of land close by acquired land - Consideration of - Market value determined by High Court in another case - Relevancy of Appellant relying on market value of adjacent land 100 yrd. away - High Court relying on market value fixed by it for land acquired in the same village for same purpose-Held, relying on judgment determining market value/compensation in respect of land situated in the same village, acquired only six months ago is not an irrelevant factor-A judgment is a valid instance from which market value can be deduced-Further held that, possibility of different conclusion on two sets of sale/acquisition is not a ground to interfere with award of High Court.

Constitution of India-Article 133, 136-Land Acquisition Act, 1894-Section 23-Acquisition of land- Compensation for-Market value-Assessment of-Comparative sales method-Matters to be considered by-Comparable sale instances of similar lands in the

neighbourhood at the time of notification under the Act are best guide to arrive at fair estimate of amount of compensation-Lands sought to be compared must be similar in nature and potentiality-In absence of sale deeds, judgments and awards passed in respect of lands acquired in the vicinity can be accepted as valid evidence and basis to determine market value.

He further relied on the case of ***State of Goa and another Vs. Sebastiana Dias alias Sebastiana Barretto and others, AIR 2006 (NOC) 620 Bombay***. It is held by the Honourable Bombay High Court that,

(A) Land Acquisition Act (1 of 1894). S.23 - Determination of market value - Rate of Rs.100/- per sq. mt. Upheld in an earlier acquisition - Sale instances referred in earlier acquisition and present acquisition similar - Present land acquired is in proximity with land acquired earlier - Facts of both acquisitions being similar, rate of Rs. 100/- per sq. mt. Upheld for earlier acquisition can be held valid for present acquisition.

He further relied on the case of ***G.M., O.N.G.C. Ltd. Vs. Sendhabhai Vastram Patel and others, 2005 (6) SCC 454***. It is held by the Honourable Supreme Court that,

A. Land Acquisition Act, 1894, Section 18 - Determination of compensation for the lands acquired - Market value thereof has to be ascertained by different modes - The best method is to reach an amount which a willing purchaser would pay to the owner of such land - That may be determined by available sale deed or by other method in the absence of that direct evidence i.e. judgments and awards or expert reports etc.

He further relied on the case of ***Union of India Vs. Bal Ram and another, 2004 AIR (Supreme Court) 3981***. It is held by the Honourable Supreme Court that,

Land Acquisition Act (1894), S. 23 – Land acquisition- Market Value- Determination of – Comparable sales instances- Relied upon for the land acquired in different village for same purpose – No illegality.

He further relied on the case of ***Amol Rambhau Arjun Vs. State of Maharashtra and others 2000(2) LAC 235 (Bom)***. It is held by the Honourable Bombay High Court that,

Land Acquisition Act, 1894 - Section 18 & 31(2)- Reference to Court - Application made after receiving the amount of compensation without any written protest - No method of protest prescribed - Oral protest while receiving the compensation - Application for reference is competent.

He further relied on the case of ***Tanaji Abaso Pawar and others Vs. State of Maharashtra and another 2005 (2) ALL MR 76***. It is held by the Honourable Bombay High Court that,

Land Acquisition Act, 1894, Sections 18 and 31(2) Constitution of India, Article 300A - Compensation awarded by the Land Acquisition Officer - Application for enhancement - Merely because in the Government records there was no endorsement by the interested parties that they had received the amount of compensation under protest, it cannot be presumed that they were satisfied or were not aggrieved by the compensation awarded - Filing of application for enhancement shows that they were dissatisfied with the compensation awarded - Rejection of application on the ground that award was accepted without lodging protest, not justified.

He further relied on the case of *Ram kishan (Since Deceased) Through His Lrs Etc. Vs. State of Haryana and others, 2025 AIR Supreme Court 2306*. It is held by the Honourable Supreme Court that,

D. Land Acquisition Act, 1854 Prior awards as evidence - Awards for similar acquisitions in adjoining villages can be relied upon as evidence but not binding unless similarity in land characteristics is established – Court distinguished relevance of prior awards and emphasized judicial discretion in their application.

He further relied on the case of *K. Devakimma and others Vs. Tirumala Tirupati Devasthanams and another, 2015 AIR Supreme Court 3375*. It is held by the Honourable Supreme Court that,

Land Acquisition Act, 1894 Sections 23, 18 and 54 Acquisition of land – For determination of market value no sale instance of comparable land available - In the circumstances Reference Court rightly determined the market value taking into consideration rate determined earlier awards given by Reference Court.

He further relied on the case of *Smt. Harbhajan Kaur Vs. Union Territory, Chandigarh, 2009 (14) RCR (Civil) 259*. It is held by the Honourable Punjab and Haryana High Court that,

Land Acquisition Act, 1894 Section 23 Compensation - Award for the land pertaining to village Kajheri, which is adjoining village Palsora, acquired - The acquisition in the present case was made 6 months prior thereto - A reasonable cut of 6% is applied for the time gap in the two notifications.

He further relied on the case of ***Chandrashekhar and others Vs. Addl. Special Land Acquisition Officer, 2009 SAR (Civil) 693***. It is held by the Honourable Supreme Court that,

(B) Land Acquisition Act, 1894 Sec. 23 - Determination of market value- Admissibility of previous decisions in a subsequent case - For a judgment relating to value of land to be admitted in evidence, must have been a previous judgment of that same court - Further requirements are that it must have been proved that due regard being given to all other attendant facts and circumstances.

He further relied on the case of ***State of Maharashtra Vs. Ganpat Kawadu Dhande 2005 (1) ALL MR 142***. It is held by the Honourable Bombay High Court that,

A. Land Acquisition Act, 1894, Sections 18, 23 and 24 - Acquisition of land - Assessment of compensation - Evidence of potentiality of the lands, irrigation facilities, quality of soil, its texture and fertility, if produced cannot be overlooked while assessing the compensation as contemplated under the Land Acquisition Act.

B. Land Acquisition Act, 1894, Sections 23 and 24 - Acquisition of land - Assessment of compensation on the basis of sale instances - No sale instances available for relevant land or of the related area - Sale instances and material placed on record by the land owners, cannot be totally discarded, though the same were not of directly relevant or of an immediate period from the date of notification in question - Appeals partly allowed.

He further relied on the case of ***State of Goa and another Vs. Yashodi Y. Dessai (D) through L.Rs. and others, 2013 (5) Mh.L.J.*** It is held by the Honourable Court that,

Land Acquisition Act, S. 23 - Compensation for acquired land - Determination - No sales of comparable land - Method of assessment of annual income from the land - Use of said method for assessing compensation - Permissibility.

He further relied on the case of *Premwati Vs. Union of India and others (2013) 7 Supreme Court Cases 57*. It is held by the Honourable Supreme Court that,

Land Acquisition Act, 1894- S.23 Compensation - Market value - Factors for consideration - Large contiguous extent of land acquired (more than 700 bighas) - Adjoining land/Land in adjacent village(s) - Value of Consideration of High Court relying on its earlier decisions wherein it had considered sale deeds of similarly situated land besides others factors to determine value of land at Rs 42,000 per bigha - Land in present matter adjoining the lands in said other cases - Held, High Court's reasoning in determining value of land based on value of adjoining land is justified, but there is no warrant for making any deduction therefrom - Hence, modifying the rate fixed, value of land enhanced to Rs 50,000 per bigha in terms of earlier decision of High Court

Considering ratios laid down by Honourable Apex Court and High Courts in above discussed cases the potentiality and quality of acquired land, instances of sale within the vicinity of acquired land, compensation amount accepted under protest, no method of protest prescribed, reliance on previous judgments of enhancement of compensation for acquired lands within the vicinity and method of assessing compensation is considered in this matter. Therefore, above discussed cases are applicable to this reference.

19. Heard learned AGP for respondent Nos.1 to 3. He argued that petition filed by petitioners is without any logic. Land was acquired by respondents from petitioners with their consent as petitioner No. 1 was the Sarpanch at the time of acquisition of land. Petitioners have claimed exorbitant compensation amount. Lands acquired were not permanently irrigated. Those were not Bagayat lands. There was no source of water in the acquired land. On the contrary these lands were non irrigated lands. No such crops were cultivated by petitioners in these lands. Petitioners were only taking kharip crops from said land. Petitioners have not filed any sale deeds of lands situated next to the acquired land. Therefore, the contention of petitioners that, acquired land was irrigated land cannot be relied in absence of documentary evidence. Hence, mere averments made by petitioners get enhanced compensation amount of acquired land cannot be considered. Petitioners have come with the false claim through their petition. In support of his argument learned AGP relied on the case of **State of Maharashtra Vs. Kailash Shiva Rangari, 2016 (3) MHLJ 457.**

It is held by the Honourable High Court that, A) Land Acquisition Act, 1894- Section 34, 4(1) section 11-- Acquisition of land-- Compensation-- Interest-- Computation-- Possession of land under acquisition is taken prior to issuance of notification under section 4(1) of the Act that interest payable under section 34 shall start running from date of passing of award-- Possession of land under acquisition was taken by Government in July

1985-- Notification under section 4(1) was issued on 16.9.1993-- Award was passed on 19.9.1995-- Actual physical possession under acquisition is prior in point of time and it is followed by notification under section 4 (1)-- Thus the none of eventualities-- claimant entitled to interest under section 34 from date of publication of notification under section 4 (1) of Act.

The above discussed case is applicable to present petitions for calculating amount of compensation and interest from the date of award.

The learned AGP for respondent Nos.1 to 3 prayed that as petition filed by petitioners is devoid of any merit this petition be dismissed.

AS TO ISSUE NOS. 1, 2 AND 4:-

20. The burden upon petitioners to prove that, compensation awarded to them by respondent No. 3 is inadequate and they are entitled for enhance compensation. To decide the valuation of acquired land, it is necessary to consider market value of agricultural lands as compared to that of agricultural lands situated within vicinity of village Banegaon. However, petitioners have filed certified copies of judgments at Exh. 28 and 29 of lands acquired for rehabilitation of villagers after earthquake in the year 1993 in the village Dapegaon. Therefore, these judgments can be considered that, the village Dapegaon is 15 kilometers away from

Banegaon approximately. In such circumstances, lands situated in the vicinity of 15 kilometers are more or less same in the fertility, quality, productivity and potentiality. Therefore, judgments passed in group matters mere in L.A.R. No. 57/1995, 58/1995 and 302/1995 (G) are required to be considered and agreement to sell mentioned in the said judgment also needs to be considered. Furthermore, sale deeds mentioned in the judgment bearing L.A.R. No. 41/2016 regarding Gat No. 233 and Gat No. 230 are required to be considered. The Court has considered the sale deed(Exh.38) in its judgment. It is concluded in the L.A.R. No.41/2016 judgment that, the rate of acquired comes to Rs.6,875/- per R.

The description of land acquired compensation awarded and additional compensation claimed by petitioners is as follows:-

Sr. No.	Survey number of acquired land	Area of land acquired	Compensation awarded	Additional compensation claimed by petitioners
1.	20/1-2	9 H 43 R	3,97,905/-	81,17,515/-

21. Petitioners have examine petitioner No. 1 Pandurang Birajdar (PW1). He has reiterated contents of petition in his examination-in-chief (Exh.14). Therefore, it is not necessary to repeat the same during appreciating his evidence.

The Learned AGP for respondent Nos. 1 to 3 cross-examine the said witness and brought on record that, prior to the earthquake village Banegaon was situated on the common grazing land. The acquired land situated near the village Banegaon. He admits that, only his land was acquired by the Government in the village

Banegaon. Village Banegaon is not situated next to the highway. Latur city is situated 35 kilometers away from the village Banegaon. He has not annexed any sale deed of neighbouring land situated in village Banegaon next to the acquired land.

22. It is admitted fact that, petitioners have not produced any sale deed on record to prove valuation of lands situated near acquired land. Therefore, the valuation of acquired land only can be fixed as per the sale deeds referred in Judgment passed by Honourable Additional District Judge, Latur in LAR Nos.57/1995, 58/1995 and 302/1995 (G) pronounced on 05/12/1997. The said references were regarding rehabilitation and resettlement of people after the earthquake in village Dapegaon which is 15 kilometers away from Banegaon. The Honourable Additional District Judge has considered agreement to sell of plots at that time and considered compensation of Rs. 7 per square feet. However, in the above said judgment acquired lands were situated along both sides of road. However, in the present petition it is proved that, there is no highway or road passing near acquired land. The acquired land is merely acquired for rehabilitation purpose only. Furthermore, in view of judgment passed in L.A.R. No. 238/2016, 240/2016, 241/2016 (G) the Court has granted Rs. 5 per square feet. Furthermore, the Court has granted compensation of Rs.11,830/- per R for the land acquired at village Dapegaon for the Dam and irrigation purpose. Wherein the judgment passed in L.A.R. No. 392/2009 (G) pronounced on 09/08/2016 was considered fixation of compensation amount.

23. On going through 7/12 extract (Exh.26) of acquired land, it shows that, petitioners were in possession of acquired land situated in survey No.20/1-2 and taking yield of Kharip crops since the year 1994. Therefore, considering the similarity between lands situated Dapegaon and Banegaon, further considering sell instances of lands situated in the vicinity of Dapegaon and Banegaon the value of 1 R land is required to be considered as Rs. 5,000/- per R. Therefore, petitioners are entitled for enhanced compensation amount at the rate of Rs.5,000/- per R with solatium at the rate of 30% after deducting the amount already paid. Hence, I answer issue No. 1 in the affirmative, issue No. 2 in the affirmative to the extent of enhanced compensation of Rs.5,000/- and accordingly the price of acquired land comes to Rs. 5,000/- per R.

AS TO ISSUE NO.3:-

24. Though, petitioner No. 1 has given land to respondents for acquisition as many villagers were homeless after the earthquake of 1993. That does not mean that respondent No. 3 has acquired the land with consent of petitioners. It is admitted fact that, respondent No. 3 has rejected the reference under Section 18 of the Land Acquisition Act which was challenged by petitioners before the Honourable High Court by filing Writ Petition No.6135/1999. Wherein, the Honourable High Court directed to file reference in the District Court to decide whether land was acquired with consent or whether petitioners are entitled for enhance compensation.

25. It is the contention of petitioners that, they have accepted the amount under protest. Filing of reference petition before respondent No. 3 itself shows that, petitioners were not satisfied with the compensation amount of acquired land. Therefore, it is proved that since beginning petitioners were trying to file the reference petition for claiming enhance compensation amount which was rejected by respondent No.3 though not having any authority to do so. After directions of the Honourable High Court this reference is filed. Hence, the conduct of petitioners itself proved that, they have not given any consent for acquisition along with compensation. Therefore, I answer issue No. 3 in the negative.

AS TO ISSUE NO. 5 :-

26. In view of above discussed oral and documentary evidence it is proved by petitioners that, respondents have granted inadequate amount of compensation to petitioners as compared to the type and quality of land acquired. Hence, petitioners are entitled for enhanced compensation at the rate of Rs.5,000/- per R with the solatium at the rate of 30% after deducting the amount already paid.

Thus, respondents are required to pay additional compensation amount to petitioners as follows:-

Additional compensation awarded	30% solatium	12% component Months, days.	3 rd 2 19	Total amount of compensation
Rs.47,15,000/-	Rs.14,14,500/-	Rs.- 1,24,168/-		Rs.62,53,668/-

27. Petitioners are further entitled for the additional component at the rate of 12% per annum on the enhanced compensation amount from the date of notification under Section 4 of the Land Acquisition Act, 1894 i.e. 09/01/1994 till the date of award i.e. 28/03/1994 with the interest on amount of compensation, additional component and solatium at the rate of 9% per annum for the first year and thereafter, at the rate of 15% per annum for subsequent years from the date of award till its realization. Hence, in answer to issue No. 5, I pass following order :-

ORDER

1. The reference is partly allowed with proportionate costs.
2. Respondents shall jointly and severally pay enhanced compensation at the rate of Rs. 5,000/- (Rupees Five Thousand only) per R to petitioners after deducting the compensation amount already paid to petitioners.
3. Respondents are further directed to jointly and severally pay solatium to petitioners at the rate of 30% on the enhanced amount of the compensation awarded by this Court after deducting solatium already paid.
4. Respondents are further directed to pay jointly and severally third component at the rate of 12% per annum on the enhanced compensation amount to petitioners from the date of notification under section 4 of Land Acquisition Act i.e. 09/01/1994 till the date of award i.e. 28/03/1994 after deducting the amount of the component already been paid to petitioners.

5. Respondents are hereby directed to pay jointly and severally the interest on the amount of compensation, additional component and amount of solatium to petitioners at the rate of 9% for the first year and thereafter at the rate of 15% per annum, for the subsequent years from the date of award till its realization.
6. Award be prepared accordingly.

Judgement dictated and pronounced in the open Court.

Date :- 29/04/2026.

(P. I. Mokashi)
Civil Judge Senior Division,
Ausa.