

MHNG100010522014



Received on : 16.05.2014

Registered on : 16.05.2014

Decided on : 27.03.2026

Duration : Y M D
11 10 11

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, UMRED
(Presided over by S.G. Landge)

L.A.R. No. 100036/2014

Exhibit No.43

- 1] **Shri. Rajeshwar S/o. Yadaorao Malve**
Age Major, Occu. Agriculture,
- 2] **Shri. Narhari S/o. Yadaorao Malve**
Age Major, Occu. Agriculture,
- 3] **Diwakar S/o. Yadaorao Malve**
Age about Major, Occu. Agriculture,
Claimant Nos.1 to 3 R/o. Gondbori,
Tah. Bhivapur, Dist. Nagpur.
- 4] **Smt. Manjulabai W/o. Shankarrao Mahalle**
Age Major, Occu. Agriculture,
R/o. Somnala, Tah. Bhivapur, Dist. Nagpur.
- 5] **Smt. Chanda W/o. Marotrao Pohekar**
Age Major, Occu. Agriculture,
R/o. Gondbori, Tah. Bhiwapur,
Dist. Nagpur.

..... Claimants.

... Versus ...

- 1] **The State of Maharashtra,**
Through Collector, Nagpur.

2] **Special Land Acquisition Officer,**
M.I.W., Nagpur.

3] **Nagpur Irrigation Division (North)**
Civil Lines, Nagpur.

..... Respondents.

Reference u/s 18 of The Land Acquisition Act, 1894.

MHNG100010532014



Received on : 16.05.2014

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11 10 11

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, UMRED
(Presided over by S.G. Landge)

L.A.R. No. 100038/2014

Exhibit No.36

Shri. Divakar S/o. Yadaorao Malve

Age Major, Occu. Agriculture,

R/o. Gondbori, Tah. Bhiwapur, Dist. Nagpur.

..... Claimant.

... Versus ...

1] **The State of Maharashtra,**
Through Collector, Nagpur.

2] **Special Land Acquisition Officer,**
M.I.W., Nagpur.

3] **Nagpur Irrigation Division (North)**
Civil Lines, Nagpur.

..... Respondents.

Reference u/s 18 of The Land Acquisition Act, 1894.

Learned Advocate for claimants : **Adv. Shri. G.N. Khanzode**
Learned Advocate for respondent Nos.1 : **Adv. Shri. S.A. Gaulkar**
& 2.
Learned Advocate for respondent No.3. : **Adv. Shri. A.G. Wandile**

(COMMON JUDGMENT)

(Delivered on this 27th of March, 2026)

Land admeasuring 0.09 HR bearing survey No.104 and land admeasuring 0.15 HR bearing survey No.107 of village Gondbori, Tah. Bhiwapur, belonged to the claimants in LAR No.36/2014.

2] Land admeasuring 0.50 HR bearing survey No.74/1 of village Gondbori, Tah. Bhiwapur, belonged to the claimant in LAR No.38/2014.

3] The state has acquired above lands for Thana Talav Project under Land Acquisition Proceeding No.30/A-65/2004-05 Mouza Gondbori, Tah. Bhiwapur, Dist. Nagpur. Special Land Acquisition Officer made the award under Section 11 of Land Acquisition Act (L.A. Act for short), on 22.04.2008.

4] Spl. LAO offered the compensation @ Rs.1,03,000/- per hector for acquired lands bearing survey No.104 and 107. Whereas Spl. LAO offered the compensation @ Rs.92,300/- per hector for acquired land bearing survey No.74/1.

5] Claimants in both matters receive notices under section 12(2) of L.A. Act on date 21.01.2009. Feeling aggrieved by such award, they have filed the present reference applications on

03.03.2009.

6] Contentions in both the reference applications are same. In LAR No.36/2014 and LAR No.38/2014, it is contended that notification under section 4 of L.A. Act was published in the year 2000. Spl. LAO had not given appropriate opportunity to the claimants to defend their rights. Spl. LAO had neither considered their objections nor had recorded their evidence in the acquisition proceeding. To their surprise, they received notices under section 12(2) of L.A. Act on 21.01.2009, whereby they were called upon to appear before Spl. LAO on 28.01.2009 to receive the award amount. They contend that per acre market value of the acquired lands was more than Rs.3,00,000/-. However, Spl. LAO had granted very meager compensation amount.

7] In both matters, it is contended that lands were acquired in the year 2000. However, compensation was paid in the year 2009. In fact, compensation was paid to farmers of village Piparda in the year 2006. But compensation was paid to the claimants in the year 2009. Construction activities of Canal in the surrounding lands, were going on. Therefore, remaining lands in the possession of claimants could not be used during such period. Therefore, damages are claimed. In LAR No.36/2014 Rs.35,000/- has been claimed as damages. However, in LAR No.38/2014, no specific amount of damages is mentioned.

8] It is contended in both reference applications that acquired lands were highly qualitative, productive and fertile. They were situated within 5 km. from the town. These lands were the

source of their livelihood. But in the form of acquisition, their such source of livelihood had been taken away by the state, without giving them just and adequate compensation. They contend that Spl. LAO ignored all these factors and had granted very meager amount of compensation. They submit that market value of acquired lands was Rs.3,00,000/- per acre at the relevant time. They have prayed for enhancement in the compensation at such rate. They have claimed other statutory benefits also.

9] In LAR No.36/2014, respondent No.3 acquired body has filed written say vide Exh.10. Respondent No.1 and 2 have adopted it by filing pursis at Exh.10/1. Same is the position in LAR No.38/2014 also.

10] By such say, respondents have opposed both the reference applications. In such say, it is contended that grounds mentioned in the reference applications are baseless and incorrect. Averments in the reference applications with respect of productivity, location and claimed market value of the acquired lands, are denied. References are not within limitation. It is contended that Special LAO considered all the relevant facts and sale instances and offered the reasonable and adequate compensation. Therefore, it is requested to dismiss the reference applications.

11] The same Ld. Judge framed issues vide Exh.12 on date 20.07.2018 separately in both the matters. Issues are same except the grammatical variations corresponding to number of claimant i.e. in LAR No.36/2014 there are more than one claimant and in

LAR No.38/2014 there is one claimant. Therefore, in stead of reproducing the issues in both the matters separately in this Judgment, I prefer to reproduce the issues in LAR No.36/2014 in the above background.

12] In LAR No.36/2014 claimant No.1 Rajeshwar has filed evidence affidavit at Exh.15 whereas in LAR No.38/2014 claimant Divakar has filed evidence affidavit at Exh.14. In both the matters, some documentary evidence is filed on record. I will make reference to such documentary evidence in the latter part of the Judgment.

13] Respondents have not adduced any evidence.

14] I heard oral arguments of Ld. Advocates for the claimants and Ld. Advocates for the respondents on 08.01.2026 in LAR No.38/2014. Since LAR No.36/2014 was not on the board of date 08.01.2026, oral argument was heard on 22.01.2026 in it. Ld. Adv. for claimants intended to file written argument. Accordingly, Ld. Adv. for claimants filed written notes of argument vide Exh.41 and Exh.34 on 12.02.2026 in both the matters respectively.

15] Ld. Adv. for claimants has relied upon the ruling of Hon'ble Bombay High Court in the matter of **State of Maharashtra Vs. Prashram Aute, 2007 (5) Mh.L.J. 403**. Perusal of it shows that the Hon'ble High Court has observed that it is not possible to provide any strait – jacket formula to resolve all controversies uniformly in resolution to determination of the value of the acquired land. Value of the acquired land needs to be determined by taking into consideration the facts and circumstances of each case. Only genuine sale instances

have to be taken into account. Some times instances are rigged up in anticipation of acquisition of land. Even post notification instances can be considered if they are very proximate from time angle and situation angle and they are genuine.

16] In view of above paragraph No.11, I reproduce the issues framed vide Exh.12 along with findings and reasoning as under :-

<u>Sr. No.</u>	<u>Issues</u>		<u>Findings</u>
1.	Whether the reference is within limitation ?	:	Yes.
2.	Do the claimants prove that the compensation granted by LAO is inadequate, unjust and improper ?	:	Yes.
3.	Whether claimants are entitled for enhanced compensation ?	:	Partly yes.
4.	What order ?	:	As Per Final Order.

REASONS

AS TO ALL ISSUES :-

17] In LAR No.38/2014, 7/12 extract Exh.18 shows that it is of the land bearing survey No.74/1 of village Gondbori. It was of the year 2007-08. It shows that area 3.02 HR stood in the name of claimant Divakar. In it, under the column of source of irrigation, the word 'नहर' is mentioned.

18] In LAR No.38/2014, notice under section 12(2) of L.A. Act is at Exh.16. It carries the date 21.01.2009 as the date on which it was issued. It was issued in the name of claimant Divakar for acquisition of 0.50 HR bearing survey No.74/1. He was called upon

to remain present on 28.01.2009 to receive the award compensation amount. He was informed that award was made on 22.04.2008. However, it does not show that copy of award was annexed with such notice when it was issued.

19] In LAR No.36/2014, 7/12 extract of survey No.107 is filed at Exh.20. It is of the year 2007-08. It shows that area 1.48 HR of it stood in the name of all five claimants in LAR No.36/2014. There is no entry of any source of irrigation to such land in the extract.

20] In LAR No.36/2014, notice under section 5(A) of L.A. Act is at Exh.19. It was issued in the name of all five claimants and their mother Vithabai Wd/o. Yadavrao, for acquisition of land survey No.104 and 107. They were called upon to submit their objections if any.

21] In LAR No.36/2014, notice under section 12(2) of L.A. Act is at Exh.18. It carries the date 21.01.2009 as the date on which it was issued. It was issued in the name of all the five claimants, for acquisition of survey No.104 admeasuring 0.09 HR. They were called upon to remain present on 28.01.2009 to receive award compensation amount. They were informed that award was made on 22.04.2008. However, this notice does not show that copy of award was annexed with it when it was issued.

22] In both the matters, claimants have specifically contended in the reference applications and it has been so stated in the evidence affidavits also that above notices under section 12(2) of L.A. Act were

received by the claimants on 21.01.2009. There is no cross examination to claimant Rajeshwar in LAR No.36/2014 and to claimant Divakar in LAR No.38/2014, on the point of service of such notice on date 21.01.2009. However, in both the matters, Spl. LAO had sent separate covering letters which are at Exh.2 in both matters. In such letters, information contemplated under section 19 of L.A. Act had been provided. In such information, it is mentioned that above notices were served on the claimants on date 07.01.2009. This statement stands contrary to the record in both the matters which show that notices were issued on date 21.01.2009. Therefore, for the above reasons, I come to the conclusion that in both the matters, above notices were served on the claimants on date 21.01.2009.

23] Exh.2 covering letters in both the matters show that reference applications have been filed on date 03.03.2009. In both matters, reference applications carry the date 02.03.2009. However, in both matters court fees stamps carry the date 03.03.2009. It is not the case of the claimants that reference applications were submitted on date 02.03.2009 and thereafter court fees stamps were submitted on 03.03.2009. Therefore, for the above reasons, I hold that in both the matters reference applications have been filed on 03.03.2009. Thus, notices under section 12(2) of L.A. Act were served on 21.01.2009 and reference applications have been filed on 03.03.2009 i.e. within 42 days. Therefore, I hold that both the reference applications are within limitation.

24] Certified copy of the award is filed at Exh.16 in LAR

No.36/2014. Photocopy of such award is at Exh.15 in LAR No.38/2014. The above award shows that award was made on 22.04.2008 in Land Acquisition Proceeding No.30/A-65/2004-05 Mouza Gondbori, Tah. Bhiwapur. Lands bearing Survey No.104 to the extent of 0.09 HR, survey No.107 to the extent of 0.15 HR and survey No.74/1 to the extent of 0.50 HR were acquired for Thana Talav Project. These lands were situated at village Gondbori. These lands were situated at the distance of 300 mtrs. away from the village. The village was 8 kms. away from tahasil place Bhiwapur. These lands were treated as Jirayat lands.

25] Above award shows that notification under section 4 of L.A. Act was published on 18.04.2006 lastly on Chawadi of the said village. This is the relevant date for determination of market value of the acquired lands. LAO considered 14 sale instances of village Gondbori of the period from 24.04.2001 to 24.04.2006. On the basis of one of those sale deeds i.e. the sale deed of survey No.72 dated 16.10.2002, market value of the acquired lands was determined by the LAO. Market value per hector as per the sale consideration in that sale deed was Rs.68,372/-. LAO had given 10% increase per year. As such Rs.92,300/- per hector rate was given for the acquired land bearing survey No.74/1 and Rs.1,03,000/- per hector rate was given for the acquired lands survey No.104 and 107. Award shows that irrigation facility was not available to the above acquired lands.

26] In LAR No.36/2014, claimants have filed 7/12 extract of survey No.107 only. 7/12 of survey No.104 is not placed on record.

Exh.20, 7/12 extract of survey No.107 does not show the availability of irrigation facility to such land. It is neither mentioned in the reference application nor in the evidence affidavit of claimant Rajeshwar that irrigation facility was available to the acquired lands survey No.104 and 107. Therefore, I hold that acquired lands survey No.104 and 107 were Jirayat lands/dry crop lands.

27] In LAR No.38/2014, 7/12 extract Exh.18 of survey No.74/1 shows that under the column of source of irrigation, the word 'Nahar' is mentioned. However, claimant has neither mentioned in the reference application nor in his evidence affidavit that source of irrigation in the form of water from Nahar / Canal was available to such land. Even if the entry in 7/12 extract about Nahar, is considered, unanswered question in this matter is as to how the water from Nahar was made available to the acquired land survey No.74/1. It is not the case of claimant Diwakar that water from the Canal was available and such water was made available through pipelines to the acquired land. If such irrigation facility had really been available, claimant Diwakar would have certainly stated above it in the reference application and evidence affidavit. But he has not done so. Therefore, for the above reasons, I come to the conclusion that acquired land survey No.74/1 was Jirayat / dry crop land.

28] Claimants have placed on record certified copy of award dated 31.12.2014 in Land Acquisition Proceeding No.1/A-65/2001-02 Mouza Wasi, Tah. Bhiwapur. Such certified copy is at Exh.21 in LAR No.36/2014. Its photocopy is at Exh.19 in LAR No.38/2014.

Perusal of such award shows that lands of village Wasi, Tah. Bhiwapur were acquired for Thana Talav Project. Notification under section 4 of L.A. Act in that matter was published on date 01.11.2012. Thus, the relevant date for determination of market value of the acquired land in that matter, was 01.11.2012 and the date of award was 31.12.2014. Whereas in the present matter, relevant date for determination of market value of acquired land is 18.04.2006 and date of award is 22.04.2008. Therefore, considering such time gap, I hold that the above award Exh.21 can not be considered in the present matter even though the lands were acquired for the same project.

29] In LAR No.38/2014, claimants have placed on record photocopy of the Judgment and order in LAC No.240/2004 passed by this court on 26.10.2018. It is at serial No.2 vide pursis Exh.23. In fact it is not marked with exhibit number. However, even if it is considered, it shows that land 1.23 HR in survey No.164 of village Tatoli, Tah. Bhiwapur was acquired for Gosekhurd Project under the notification of section 4 of L.A. Act published on 20.04.2000 in Land Acquisition Proceeding No.8/A-65/1999-2000. Date of award in it was 16.07.2001.

30] Map of Tahasil Bhiwapur is filed with pursis Exh.25 in LAC No.36/2014 to show that village Gondbori is 3 km. away from village Tatoli. In fact, such distance is not anywhere mentioned in the map. Further there are two villages in between village Gondbori and Tatoli. Award and project in LAC No.240/2004 are different from

award and project in the present matter. Therefore, such Judgment and award can not be considered in the present matter.

31] Claimants have placed on record certified copy of registered sale deed bearing No.726/2008 of date 25.11.2008 at Exh.17 in LAR No.36/2014. Photocopy of it is at Article A in LAR No.38/2014.

32] Above sale deeds shows that Land bearing Gat No.78, to the extent of 1.80 HR of village Gondbori was sold out for Rs.11,00,000/- on 25.11.2008. In the present matter, date of publication of notification under section 4 of L.A. Act is 18.04.2006. Thus, above sale deed is post notification sale deed. There is gap of nearabout two and half year in between such date and the date of sale deed. Therefore, it can not be treated as proximate in time. Therefore, I hold that such sale deed can not be considered even though it is of the land of same village.

33] At the stage of argument, claimants have placed on record certified copy of registered sale deed No.2240/2005 of date 25.08.2005. Such certified copies are filed in both matters.

34] Award Exh.15 in present matter shows that, above sale deed is one of the 14 sale deeds which were considered by LAO in the award. This sale deed is mentioned at serial No.13 in the award in the schedule of sale instances at page No.6. In the award at page No.7, it is mentioned that survey No.27 is 600 mtr. away from the acquired lands and sale deed was of excessive amount, therefore such sale instance was not relied upon by LAO to determine the market

value.

35] Sale deed is of date 25.08.2005 i.e. within one year prior to the date of notification. Four boundaries of the land of that sale deed show that towards eastern side, there is land of claimant Rajeshwar and towards Southern side, there is land of Smt. Vimal W/o. Rajeshwar. Land is of village Gondbori. Therefore, considering the proximity of time and situation of the land, I hold that above sale deed No.2240/2005 can be considered in the present matter. Therefore, though it is placed on record at argument stage by the claimants, it is marked with Exh.42 and Exh. 35 in LAR No.36/2014 and 38/2014 respectively, in view of the provisions of section 51-A of Land Acquisition Act.

36] Above sale deed No.2240/2005 shows that land bearing Gat No.27 admeasuring 0.52 HR of village Gondbori, Tah. Bhiwapur was sold out for Rs.125000/- on date 25.08.2005. Thus, calculation shows the following result -

$$125000 / 52 = 2403.84/-$$

Therefore one R value = 2404/- in round figure.

$$\text{Thus, } 40 \text{ R} = 2404/- \times 40 = 96160/-.$$

$$\text{Therefore } 100 \text{ R} = 2404 \times 100 = 240400/-.$$

Thus, value of one acre was Rs.96160/- and value of one hector was Rs.240400/- on date 25.08.2005.

37] However, date of notification in the present matter is 18.04.2006. Thus, there is gap of eight months in between date 25.08.2005 and 18.04.2006. Award shows that village Gondbori was

8 km. away from Tahasil place Bhiwapur. Therefore, I think it just to consider 10% increase for such period. 10 % of the amount of Rs.96160/- is Rs.9616/-. Above calculation shows that per acre value was Rs.96160/- on 25.08.2005. Thus, per acre value was Rs.96160 + 9616 = 105776/- on date 18.04.2006. Therefore, value of one hector land was Rs.264440/- on 18.04.2006. Above sale deed depicts the above picture. Above sale deed does not show that any type of irrigation facility was available to the land bearing Gat No.27 i.e. the subject matter of it. Thus it is treated that it is the sale deed of dry crop land. In the present matter also, I have already held that acquired lands bearing survey No.104, 107 and 74/1 were the dry crop lands at the relevant time. Therefore though the claimants have claimed that market value of the acquired lands was Rs.300000/- per acre, yet on the basis of above evidence I have come to the conclusion that market value of acquired lands was Rs.105776/- per acre (Rs.264440/- per hector) on date 18.04.2006.

38] Claimants contend that above lands were acquired in the year 2000 and therefore they have claimed damages also. However they have not placed evidence on record to show that possession of acquired lands were taken by the acquiring body in the year 2000 i.e. prior to date of notification. Therefore they have failed to prove their such claim for damages.

39] However, on the basis of above evidence and for the above reasons, I hold that Ld. S.L.A.O. awarded inadequate compensation for acquired lands in both the matters. Therefore,

claimants in both the matters are entitled to get compensation enhanced at the market rate fixed as above along with statutory benefits. Hence, I answer issue Nos. 1 and 2 in affirmative and answer issue No.3 in partly affirmative accordingly. To answer issue No.4, I proceed to pass following order :-

ORDER

- 1] These two references are partly allowed as under :-
- A] The market value of the acquired lands of Survey No.104 admeasuring 0.09 H.R. : of Survey No.107 admeasuring 0.15 H.R. and of Survey No.74/1 admeasuring 0.50 H.R. all three lands of village Gondbori, Tah. Bhiwapur, District Nagpur is determined at the rate of **Rs.264440/- (Rs. Two Lakh Sixty Four Thousand Four Hundred and Forty only) per hector on 18.04.2006** i.e. date of publication of notification u/Sec. 4 of L.A. Act.
- B] Claimants are entitled to get 12% component amount on enhanced market value, as per Section 23(1)(1-A) of the said Act, from the date 18.04.2006 till the date 22.04.2008.
- C] Claimants are entitled to get 30% Solatium u/Sec. 23(2) of the said Act, on the enhanced market value of the acquired lands.
- D] Claimants are entitled to get interest @ of 9% per annum on the enhanced market value determined u/Sec. 23 of the said Act, for the period of one year from the date of Award i.e. from 22.04.2008 and thereafter to get the interest @ 15% p.a. till realization of the entire amount. However, It is made clear that

claimants are entitled to get interest as per the judgment of **Sunder Vs Union of India 2001(7) SCC 211**, from the date 19.09.2001 onward.

2] Respondents shall jointly and severally pay the compensation to the claimants in both the references, as per the above order by deducting the earlier paid compensation.

3] Respondents shall bear their own costs and shall pay the costs of the claimants.

4] Claimants shall pay deficit court fees, if any.

5] Award be drawn up accordingly.

Umred.

Date : 27.03.2026

[**S.G.Landge**]

Civil Judge Senior Division, Umred,
District Nagpur.

Certificate

“I affirm that the contents of this P.D.F. file judgment are word to word as per original”.

Name of Stenographer : **Shir. C.D. Gahukar**
Stenographer (Gr.II)

Court Name : Civil Judge Senior Division, Umred.

Judgment ready on : 27.03.2026

Judgment checked and signed on : 27.03.2026