

**ORDER BELOW EXH.15**

*(Order passed on 04<sup>th</sup> day of January 2019)*

The application is for amendment of petition under Order VI Rule 17 of C.P.C.

[02] Perused the application and say given by other side. Heard both sides at considerable length. The reference petition is for enhancement of compensation U/s.18 of the Land Acquisition Act. By way of this application it has been contended by the petitioner that the acquired land was of high quality and fertility. It is averred that the water source was available to irrigate the acquired land. The minimum market price of acquired land at relevant time was not less than Rs.5,00,000/- per hecter. However, the earlier counsel while institution of the reference has claimed the compensation at Rs.2,00,000/- per hecter. It is averred that as the price of land was not less than Rs.5,00,000/- per hecter and hence the petitioner wants to carry out amendment regarding his claim stated in the petition. It is averred that the petitioner is ready to pay the deficit court fees. Thus, petitioner prayed for allowing the amendment.

[03] On the other hand, the respondents have opposed the

application. According to the respondents the amendment is after thought and belated one. It has been contended that the original reference has been made in the year 2009 and hence now the present applicant has no legal right to apply for carrying out amendment as prayed. It is averred that the petitioner/applicant by way of proposed amendment is trying to fill up the lacuna. Thus, respondents prayed for rejection of the application.

[04] Considering the contentions put forth by both sides, following points are arise for my determination to which I have recorded my findings for the reasons to follow.

Sr.No.	Points	Findings.
1	Whether the amendment is liable to be allowed ?	<b>In the Affirmative</b>
2	What Order ?	<b>Application is allowed.</b>

### REASONS

#### As to point no.1 and 2 :-

[05] Considering the submissions made by both sides, if we go through the matter at hand, admittedly present reference has been instituted by the petitioner for enhancement of compensation u/s.18 of the Land Acquisition Act. By way of proposed amendment, petitioner wants to enhance his claim stated at petition Exh.1. In support of his application petitioner relied upon the case of *Ambya Kalya Mhatre*

*(Dead) Through LR's and others Vs. State of Maharashtra (2011)9, Supreme Court Cases, 325.* I have thoroughly gone through the guidelines given in the authority of Hon'ble Apex Court. In this authority, it has been observed that after expiry of period of limitation given in section 18 it is not permissible to change the nature of objection from one category to another i.e. where reference is sought regarding amount of compensation, land owner cannot after period of limitation seek amendment to change objection to objection as to measurement or objection as to apportionment. It is held that period of limitation is inapplicable for specifying amount of compensation. Reference court can permit amendment of amount claimed as compensation.

[06] Here in case at hand it is seen that the petitioner simply wants to enhance the claim. Petitioner is not claiming to change the nature of objection from one category to another. No doubt while institution of reference the petitioner could have mentioned all these facts in his petition Exh.1, however admittedly there is delay in filing of this amendment application. However, mere delay is not the ground to reject the amendment. If amendment is allowed no nature of proceeding will change. The amendment claimed by the petitioner is seen to be necessary for deciding the matter on merits. Thus, in view of the guidelines given in the authority of above cited case and as per

section 53 of the Land Acquisition Act, the provision of Order VI Rule 17 of the C.P.C. the application is seems to be liable for allowed. Hence, I answer point no.1 in the affirmative and in answer to point no.2 I proceed to pass the following order.

**ORDER**

- [01] The application (Exh.15) is allowed subject to the costs of Rs.1,000/- (Rupees One Thousand only) payable to the account of District Legal Services Authority, Nagpur.
- [02] The petitioner to carry out the proposed amendment at the earliest and place amended copy of it on record and supply the amended copy to other side.
- [03] The petitioner to pay court fees on enhanced amount after the proposed amendment is carried out.

Umrer  
Date : 04.01.2019

(S.K.Fokmare)  
Civil Judge Senior Division, Umrer

**Certificate**

"I affirm that the contents of this P.D.F. file order are word to word same as per original order".

Name of Stenographer : **Mr. Mahendranath D. Nagpure.**  
Stenographer (Lr.Gr.)  
Court Name : Civil Judge Senior Division, Umrer  
Order signed on : 04/01/2019.

/home/ubuntu/1-C.J.S.D./ORDERS/5-ORDER ON AMENDMENT  
APPLICATION./

DISTRICT COURT  
NAGPUR