


CNR No.MHNG130007142023 	Filed on	: 04/06/2004
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		21 01 29

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, RAMTEK.
(Presided over by Shri. S.M. Sarode)

L.A.C.No. 65/2005

Exhibit No.46

1. Damodhar S/o Mahadeo Shivankar,
Aged about 77 years,
Occupation Agriculturist,
R/o Yerkheda, Kamptee,
Tahsil – Kamptee, District - Nagpur ... Applicant

-Versus-

1. The Chairman M. S. E. B. Department,
Mumbai – 32.
2. The State Of Maharastra, through Collector,
Nagpur, Collectorate Building, Nagpur.
3. The Special Land Acquisition Officer
(General), Collectorate Building, Nagpur.
4. Maharashtra State Power Generation
Company Limited, Through
its Executive Engineer(Civil),
Thermal Power Station Khaperkheda,
Tahsil-Saoner, District-Nagpur. ... Non-applicants

Learned Advocate Shri. Kushwaha for the applicant.
Learned Advocate Shri. Mohril for the non-applicant No.1& 4.
Learned Advocate Shri.Talgote for the non-applicant No.2 and 3.

(J U D G M E N T)

(Delivered on this 30th day of March, 2026)

This reference has been forwarded to the court by the Special Land Acquisition Officer, Nagpur under section 18 of the Land Acquisition Act, 1894 seeking adjudication upon the applicant's claim for enhancement of compensation in respect of the acquired land.

02] The alleged facts giving rise to the present reference can be narrated as under:

That the applicant was the owner of agricultural land bearing survey No.123/1 an area admeasuring 00.26 HR., situated at village- Village-Nandgaon, Tahsil Parseoni, District Nagpur.

03] The non-applicants acquired aforesaid total land i.e. an area admeasuring 00.26 HR (hereinafter referred to as the suit property) out of survey no. 123/1 for the purpose of government use vide Land Acquisition Case No. 2/A-65/96-97, For the purpose of acquisition of suit property, a notification under Section 4 of the Land Acquisition Act was published on 23/02/2000. After completion of the acquisition proceedings, an award under Section 11 of Land Acquisition Act was passed on 26/03/2002. The notice under Section 12(2) of Land Acquisition Act was duly served upon the applicant on 6/03/2003. The applicant, having accepted compensation amount under protest, filed the present reference seeking enhancement. Consequently, reference was sent to the District Court under Section 18 of Land Acquisition Act, 1894, on 4/08/2004.

04] The applicant has contended that the compensation awarded by the land acquisition officer at the rate of Rs. 1,05,750/- per Hectare for irrigated land was grossly inadequate and unjustified. It is further contended that, the compensation ought to have been granted to the tune of Rs.2,50,000/- per hectare.

05] The applicant has claimed enhancement of compensation on the following grounds-

(a) That, the acquired land was fertile, irrigated and capable of yielding 2 to 3 crops annually, namely Soyabean, Tur, Cotton and Groundnut.

(b) That, the land was cultivated by adopting modern agricultural practices.

(c) That, the applicant was earning net income exceeding Rs. 30,000/- per acre, which has not been considered.

(d) That, due to acquisition, the applicant has been rendered landless and deprived of his sole source of livelihood.

(e) That, the non-agricultural potential of the land owing to its location and development has been ignored.

(f) That, the Special Land Acquisition Officer failed to properly assess the value for Stone Bandhis.

(g) That, the compensation awarded has been accepted under protest as it does not reflect the true market value.

(h) That, the valuation is based on non-comparable sale instances and outdated revenue records.

(i) That, no proper enquiry was conducted and no adequate opportunity was given to adduce evidence.

(j) That, the land is situated about 38 kms from Nagpur and 3.6 km. from Tahsil Parseoni, having road access, electricity and other facilities, thereby possessing both agricultural utility and non-agricultural potential.

(k) That, the compensation awarded is grossly inadequate and contrary to settled principles of valuation.

06] The particulars of claim as put forth by the applicant are as follows-

(a) Land admeasuring 0.642 acres @ Rs. 1,00,000/- per acre – Rs.64,200/-

(b) Stone Bandhis – Rs. 40,000/-,

Total – Rs.1,04,200/-,

Compensation was awarded – Rs.30,413/-,

Enhanced compensation is claimed – Rs. 73,787/-.

07] The applicant has further claimed statutory benefits, namely solatium @ 30%, additional component @ 12% per annum, and interest @ 18% per annum from the date of award till realization, along with costs of the proceedings.

08] On the other hand, the non-applicant no.1 and 4 have filed their written statement at Exh.14 and it is stated that, the present

reference arises out of the award dated 26.03.2002 passed by the Land Acquisition Officer (General), Nagpur in Land Acquisition Case No. 2/A-65/1996-97 pertaining to Mouza Nandgaon, Tahsil Parseoni, District Nagpur. The acquisition was undertaken for a public purpose, namely construction of Ash Bund for Khaperkheda Thermal Power Station of the non-applicant. It is not in dispute that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 were duly issued and published, and that possession of the acquired land was taken after payment of compensation to the applicant.

09] The non-applicant has raised a preliminary objection that the reference under Section 18 of the Land Acquisition Act is barred by limitation, as the same was not filed within the prescribed period. It is further contended that the applicant had participated in the acquisition proceedings, was duly represented, and had accepted the compensation without lodging any proper protest. On this ground alone, it is urged that the reference deserves to be rejected.

10] On merits, it is submitted that the acquired land is situated in a remote village lacking significant development or commercial potential, and therefore does not command high market value. The contention of the applicant regarding proximity to Nagpur, fertility of land, and high income generation is specifically denied. It is further contended that the land was not of superior quality, being largely murum and not capable of yielding crops to the extent claimed. No

cogent documentary evidence has been placed on record by the applicant to substantiate claims of higher yield, multiple cropping, or enhanced valuation.

11] The non-applicants further submit that the Land Acquisition Officer has determined the market value after due inquiry, taking into consideration all relevant factors, including comparable sale instances and prevailing market conditions at the time of issuance of notification under Section 4. The award passed is stated to be just, proper, and more than adequate. Allegations regarding improper valuation, lack of inquiry, or non-consideration of relevant material are specifically denied as baseless and unsupported by evidence.

12] The non-applicant no.2 and 3 have adopted written statement of non-applicant no.1 and 4 by filling a pursis at Exh.16.

13] Heard learned counsel appearing for the applicant and non-applicant no.1 and 4.

14] The issues, framed at Exh.17 are reproduced below along with my findings thereon for the reasons given hereunder-

ISSUES		FINDINGS
(1)	Whether the applicant proves that the compensation awarded by the Special Land Acquisition Officer, is inadequate and not just and proper ?	In the affirmative.

ISSUES		FINDINGS
(2)	Whether the reference is within limitation?	In the affirmative.
(3)	Whether the applicant is entitled to enhanced compensation ? If yes, what should be the amount ?	Partly affirmative
(4)	What order and award ?	Partly allowed

REASONS

15] In support of the reference, the applicant has examined power of attorney holder Dipak Damodhar Shiwankar (CW-1), and has tendered his evidence at Exhibit 31. Thereafter, the applicant has closed his evidence by filing pursis at Exhibit 36.

16] In order to substantiate his claim, the applicant has placed on record several documents, including the certified copy of the award at Exhibit 25 and 7/12 extract of the suit property at Exhibit 34 and xerox copy of power of attorney at Exh.33.

17] Per contra, non-applicant Nos. 1 and 4 have examined their witness, namely Murlidhar Tembhare (NA-1), at Exhibit 39. The non-applicants have also produced documentary evidence on record, particularly the village map at Exhibit 40, xerox copies of judgments passed in LAC Nos. 204/2003 and 205/2003 at Exhibits 42 and 43 respectively, a xerox copy of the judgment passed in LAC No. 203/2003 at Exhibit 41, and xerox copy of authority letter at Exhibit 44. The said

non-applicants have thereafter closed their evidence by filing pursis at Exhibit 45.

AS TO ISSUE NO. 2 -

18] In order to determine whether the present reference has been filed within the prescribed period of limitation, it is necessary to examine the provisions contained in Section 18(2) of the Land Acquisition Act, which reads thus:

“The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made-

(a) if the person making it was present or represented before the Collector at the time when the award was made, within six weeks from the date of the Collector’s award; or

(b) in other cases, within six weeks of the receipt of notice from the Collector under Section 12(2), or within six months from the date of the Collector’s award, whichever period expires first.”

19] The applicant has asserted that he received notice under Section 12(2) of the Land Acquisition Act on 06/03/2003. There is no material on record to establish that the applicant was either present or duly represented at the time of passing of the award. Furthermore, this fact has not been disputed or challenged in the cross-examination conducted by the non-applicants. The non-applicants have also failed to

produce any document to demonstrate the actual date on which notices were served upon the applicants.

20] It is pertinent to note that, as per the reference letter (Exhibit 2), the present reference came to be filed on 26/03/2003. Consequently, the limitation prescribed under Section 18(2)(b) of the Land Acquisition Act would govern the present case. Considering the date of receipt of notice under Section 12(2), the reference has been filed well within the prescribed period of six weeks. Thus, the reference is within limitation.

21] In view of the aforesaid discussion, it is evident that the reference petition has been filed within the prescribed period of limitation. Hence, Issue No. 2 is answered in the affirmative.

AS TO ISSUE NOS. 1 AND 3 -

22] Since Issue Nos. 1 and 3 are intrinsically interconnected and arise out of the same factual matrix, they are taken up together for adjudication on the basis of a common line of reasoning. Before embarking upon the determination of these issues, it would be appropriate to consider the prevailing legal position.

(i) In *Narendra and Others vs. State of Uttar Pradesh and Others*, reported in (2017) 9 SCC 426, the Hon'ble Supreme Court has observed:

“In land acquisition matters, it must be borne in mind that the landowners, particularly agriculturists, whose lands are acquired for a public purpose, are entitled to fair compensation. In such cases, strict rules of pleadings should not be rigidly applied, and the paramount consideration must be to render substantial justice to the parties. Land acquisition being a welfare legislation, it is just and proper to award fair market value keeping in view the object and purpose of the Act.”

(ii) In *State of Maharashtra vs. Parashram Jagannath Aute*, AIR 2007 Bom 167, the Hon’ble Bombay High Court has held:

“There cannot be any rigid or universal formula for determination of compensation. Each case must be decided on its own facts, and common sense is the best and most reliable guide.”

23] It is well-settled that the Court cannot rely upon the material considered by the Land Acquisition Officer in the award unless such material is duly produced and proved before the Court. The reference proceedings are to be treated as original proceedings, and the Court is required to determine the market value afresh on the basis of evidence adduced before it. It is equally settled that the burden to establish that the compensation awarded is inadequate lies upon the applicants, who must discharge the same by leading cogent and reliable evidence.

24] In the present case, the contention of the applicant is that the Land Acquisition Officer has awarded inadequate and unjust compensation without considering relevant and material factors while determining the market value of the acquired land. In support of this contention, the applicant's power of attorney holder namely Dipak (CW-1) has deposed in accordance with the pleadings in the reference petition.

25] The said witness has further deposed that the Land Acquisition Officer failed to consider that the applicants were cultivating crops such as soybean, tur, cotton, and groundnut on the acquired land, and that they were earning approximately Rs. 30,000/- per acre from such cultivation. However, the applicant has failed to substantiate the said claim by leading any cogent oral or documentary evidence.

26] It is to be noted here that, the 7/12 extract of the suit property at Exhibit 34 indicate that the applicant was cultivating Kharif and Rabbi crops and source of water was canal. The applicant's witness namely Dikak (CW-1) has stated in the cross-examination that, the source of water was canal and he had been paying money to the irrigation department. He has denied in his cross-examination that, acquired land was non-irrigated land. There is no reason to disbelieve testimony of the applicant. Additionally, the non-applicant's witness

namely Murlidhar (NA-1) has admitted in cross-examination that some lands had canal irrigation facilities while others had well irrigation. This admission substantiates that the acquired land was irrigated and fertile.

27] The applicant has stated that the market value of the land at the relevant time was Rs. 1,00,000/- per acre. However, the applicant has not produced any documentary or corroborative evidence to establish that the market value at the relevant time was indeed Rs.1,00,000/- per acre.

28] It is significant to note that the applicant has not produced certified copies of comparable sale instances to support their claim for enhancement.

29] Instead, the applicant has relied upon judgments rendered in LAC Nos. 203/2003 and 204/2003 (Exhibits 41 and 42 respectively) and have claimed parity on the ground that the facts of the present case are identical. It is contended that, in addition to parity, an enhancement is warranted on account of the availability of a water source.

30] It is well settled that similarly situated landowners are entitled to equal treatment, and the principle of parity is required to be duly maintained while determining compensation. However, such parity cannot be applied in a rigid or mechanical manner so as to defeat the ends of justice. The Court, while ensuring parity with comparable cases, is not precluded from awarding higher compensation where the

evidence on record discloses additional advantages or factors enhancing the value of the acquired land. Having regard to the fact that the Land Acquisition Act is a beneficial legislation intended to secure just, fair and reasonable compensation to landowners, it is just and proper that appropriate enhancement be granted, wherever warranted, so as to ensure that landholders are not deprived of legitimate and equitable benefits.

31] The record reveals that the present case and LAC Nos. 203/2003 and 204/2003 arise from the same acquisition notification and pertain to lands situated in the same village. In the said judgments, the market value was determined at Rs.80,000/- per hectare for dry land and Rs.1,20,000/- per hectare for irrigated land.

32] It is further evident that the said judgments have not been challenged by the non-applicants, as no material has been placed on record to show any appeal or stay against the same. Moreover, the non-applicants have failed to distinguish the present case from the said judgments.

33] However, the evidence on record indicates that the acquired land in the present case had the advantage of a permanent source of irrigation through a canal, thereby enhancing its productivity and income potential. This distinguishing feature is not shown to have been considered in the earlier judgments relied upon for parity.

34] In such circumstances, while applying the principle of parity, the additional advantage of irrigation warrants a reasonable enhancement over and above the rate determined in LAC Nos. 203/2003 and 204/2003. Accordingly, the applicant is entitled to compensation at the rate of Rs.1,30,000/- per hectare to the irrigated land as on the date of notification under Section 4 of the Land Acquisition Act.

35] It is to be noted here that, the applicant has failed to adduce any cogent evidence in support of their claim regarding stone-bandhi. In the absence of such a evidence, the said claim can not be considered and is accordingly, liable to be rejected. Hence, Issue No. 1 is answered in the affirmative and Issue No. 3 is answered partly in the affirmative.

AS TO ISSUE NO. 4 -

36] Apart from the enhanced compensation, the applicant is entitled to an additional amount at the rate of 12% per annum on the enhanced compensation for the period commencing from the date of publication of notification under Section 4(1) till the date of the award of the Collector or the date of taking possession, whichever is earlier. The applicant is also entitled to solatium at the rate of 30% on the enhanced compensation under Section 23(2) of the Act.

37] The applicant has further claimed interest on the entire

compensation amount inclusive of the additional component and solatium. In *Sunder vs. Union of India* (2001), the Hon'ble Supreme Court has held that compensation includes all components under Section 23. Thus, the expression "awarded amount" encompasses the entire compensation including solatium and additional amount.

38] Accordingly, the applicant is entitled to interest on the enhanced compensation, inclusive of additional component and solatium, at the rate of 9% per annum for the first year from the date of the award and thereafter at the rate of 15% per annum till realization, in terms of Section 28 of the Act. It is further noted that the applicant has already received certain compensation under protest, which shall be deducted from the enhanced compensation.

ORDER

(1)	The reference petition is partly allowed.
(2)	The non-applicants are directed to pay jointly and severally the enhanced compensation of Rs. 1,30,000/- per hectare to the applicant, after deducting the compensation already paid, in accordance with Section 23(1) of the Land Acquisition Act, 1894.
(3)	The non-applicants shall further pay jointly and severally an additional component at the rate of 12% per annum on the enhanced compensation from the date of publication of notification under Section 4(1) till the date of the award, as per Section 23(1A) of the

	Land Acquisition Act, 1894, after deducting any amount already paid.
(4)	The non-applicants shall pay jointly and severally solatium at the rate of 30% on the enhanced compensation to the applicant as per Section 23(2) of the Land Acquisition Act, 1894, after deducting the amount already paid.
(5)	The non-applicants shall also pay jointly and severally interest on the aforesaid enhanced compensation (inclusive of additional component and solatium) at the rate of 9% per annum for the first year from the date of the award, and thereafter, at the rate of 15% per annum until realization of the entire amount, as per Section 28 of the Land Acquisition Act.
(6)	The non-applicants shall also pay jointly and severally the cost of the claim petition to the applicant in accordance with Section 27(2) of the Land Acquisition Act, 1894.
(7)	The remaining claims of the applicant stand rejected.
(8)	Award be drawn up accordingly.

Ramtek.
Date: 30.03.2026.

[S. M. Sarode]
Civil Judge Senior Division,
Ramtek.

Endorsement

Case argued on	:	24.03.2026
Judgment dictated on	:	30.03.2026
Transcription ready on	:	30.03.2026
Judgment checked and signed on	:	30.03.2026

CERTIFICATE

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

Name of Stenographer : R. J. Khobragade (Gr.- II)