


CNR No.MHNG130015152023 	Filed on	:	04/08/2004
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	Decided on	:	19/01/2026
	Duration	:	Yrs, Mon, Days

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, RAMTEK.

(Presided over by Shri. S.M. Sarode)

L.A.C.No. 30/2005

Exhibit No.60

Smt. Narmdabai Wd/o. Madhukar Kushwaha (Dead),

A) Rajkumar S/o. Madhukar Kushwaha,  
Aged about 62 years, Occupation-Busienss.

B) Munnalal S/o. Madhukar Kushwaha, [Dead]  
Aged about 58 years, Occupation-Business.

B- i) Smt. Rama Wd/o. Munnalal Kushwaha,  
Aged about 52 years,  
Occupation-Household/Agriculturist,

B-ii) Kartik S/o. Munnalal Kushwaha,  
Aged about 27 years,  
Occupation-Business/Agriculturist.

B-iii) Kanchan D/o. Munnalal Kushwaha,  
Aged about 24 years, Occupation-Student.  
All R/o. Futana Oli, Kamptee,  
Tahsil-Kamptee, District-Nagpur

C) Ramesh S/o. Madhukar Kushwaha, [Dead]  
Aged about 52 years, Occupation-Busienss.

C-i) Smt. Priti Wd/o Ramesh Kushwaha,  
Age 50 Years, Occ:- Household,

C-ii) Ritu D/o Ramesh Kushwaha,,  
Age 31 Years, Occ:- Household,

C-iii) Nikhil S/o Ramesh Kushwaha,,  
Age 28 Years, Occ:- Private Job,  
All R/o Near Shiv mandir, Futana oli,  
Kamptee, Tah. Kamptee, Dist. Nagpur.

D) Santosh S/o. S/o. Madhukar Kushwaha,  
Aged about 46 years, Occupation-Advocate.  
All R/o. Futana Oli, Kamptee,  
Tahsil-Kamptee, District-Nagpur

E) Smt. Prema W/o. Raju Murai,  
Aged about 55 years, Occupation-Household.  
R/o. Hanuman Akhada Chowk , Yatatmahal.

F) Smt. Lata W/o. Mahindra Pataliya,  
Aged about 49 years,  
Occupation-Household. R/o. Puna.

G) Smt. Sangeeta W/o. Mahesh Moriya,  
Aged about 40 years,  
Occupation-Household.  
R/o. Bajariya, Nagpur.

... Applicants

-Versus-

1. The Chairman M. S. E. B. Department,  
Mumbai – 32.
2. The State Of Maharashtra, 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

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

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**(JUDGMENT)**

(Delivered on this 14th day of May, 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.31 an area admeasuring 3.80HR., situated at village-Village-Nandgaon, Tahsil Parseoni, District Nagpur.

03] The non-applicants acquired aforesaid total land i.e. an area admeasuring 3.80 HR (hereinafter referred to as the suit property) out of survey no. 31 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 23/02/2004.

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 including 1000 orange trees 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 and Rs.3,000/- per orange tree.

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, 1000 orange trees, 10 Java plum/Jambul, 50 lemon trees and house.

(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 9.389 acres @ Rs. 1,00,000/- per acre – Rs.9,38,900/-

(b) Stone Bandhis – Rs. 40,000/-,

(c) Orange trees 1000 at the rate of Rs.3,000/- per tree, totaling Rs.30,00,000/-,

(d) 50 Lemon trees at the rate of 3000/- (1,50,000/-)

(e) 10 Java Plum trees- 40,000/- (at the rate of 4000/- each)

(f) House- 1,00,000/-

(g) one well- 1,00,000/-

Total – Rs.43,68,900/-

Compensation was awarded – Rs.12,57,869/-,

Enhanced compensation is claimed – Rs.31,11,031/-.

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 a pursis at Exh.31 and thereby adopted written statement filed in the LAC No.31/2005. As per their written statement, 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] Heard learned counsel appearing for the applicant and non-applicant no.1 and 4.

13] The issues, framed at Exh.32 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.
(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

14. In support of the present reference, the applicant namely Rajkumar has entered the witness box and examined himself as CW-1. He has tendered his affidavit-in-evidence at Exhibit 37. The applicant has further examined one witness, namely Vijay Dhale (CW-2), whose evidence has been brought on record at Exhibit 51. Upon completion of the oral evidence, the applicant closed his side by filing pursis at Exhibit 52.

15. In order to substantiate the claim advanced in the reference petition, the applicant has placed on record several documents,

including the certified copy of the award at Exhibit 38, 7/12 extract of the acquired property at Exhibit 39, 43 and 44, copy of protest application at Exhibit 42, report of Taluka Land Inspector, Parseoni at Exhibit 48, joint measurement chart/report at Exhibit 49, xerox copy of sale deed at Exhibit 50.

16. Per contra, non-applicant Nos.1 and 4 have examined their witness, namely Murlidhar Tembhare (NAW-1), whose evidence has been recorded at Exhibit 53. The non-applicants have also produced documentary evidence on record, particularly the village map at Exhibit 54, xerox copies of judgments rendered in L.A.C. Nos.204/2003 and 205/2003 at Exhibits 56 and 57 respectively, xerox copy of judgment passed in L.A.C. No.203/2003 at Exhibit 55, and xerox copy of authority letter at Exhibit 58. Thereafter, the non-applicants closed their evidence by filing pursis at Exhibit 59.

### **AS TO ISSUE NO.2-**

17. For the purpose of determining whether the present reference has been instituted within the prescribed period of limitation, it becomes necessary to advert to the provisions contained in Section 18(2) of the Land Acquisition Act, which read 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.”

18. The applicant has specifically asserted that he received notice under Section 12(2) of the Land Acquisition Act on 06/03/2003. There is no material available on record to establish that the applicant was either present or duly represented at the time of passing of the award. Significantly, this assertion has neither been disputed nor effectively challenged during the course of cross-examination conducted on behalf of the non-applicants. Furthermore, the non-applicants have failed to place on record any documentary material demonstrating the actual date on which notice came to be served upon the applicant.

19. It is pertinent to note that, as reflected from the reference letter (Exhibit 2), the present reference came to be filed on 31/03/2003. Consequently, having regard to the limitation prescribed under Section 18(2)(b) of the Land Acquisition Act, the present reference has admittedly been instituted well within the statutory period of six weeks from the date of receipt of notice under Section

12(2). Hence, the reference is clearly within limitation.

20. In view of the aforesaid discussion and the evidence available on record, it becomes evident that the reference petition has been filed within the prescribed period of limitation. Accordingly, Issue No.2 is answered in the affirmative.

**AS TO ISSUE NOS.1 AND 3-**

21. Since Issue Nos.1 and 3 are intrinsically interconnected and arise out of the same factual matrix, they are being taken up together for the sake of convenience and adjudicated upon by adopting a common line of reasoning. Before embarking upon the determination of the said issues, it would be apposite to consider the prevailing legal position governing the field.

(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 thus:

“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. Prashram Jagannath Aute*, reported in *AIR 2007 Bom 167*, the Hon’ble Bombay High Court has held thus:

“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.”

22. It is a well-settled principle of law that the Court cannot place reliance upon the material considered by the Land Acquisition Officer in the award unless such material is duly produced and proved before the Court. A reference proceeding is required to be treated as an original proceeding, and the Court is under an obligation to independently determine the market value on the basis of evidence adduced before it. Equally well-settled is the principle that the burden to establish inadequacy of compensation awarded by the Land Acquisition Officer squarely lies upon the applicants, who are required to discharge the same by adducing cogent, convincing and reliable evidence.

23. In the present case, the contention advanced on behalf of the applicant is that the Land Acquisition Officer awarded wholly inadequate and unjust compensation without taking into consideration the relevant and material factors governing the determination of market

value of the acquired land as well as fruit-bearing trees standing thereon. In support of the said contention, the applicant (CW-1) has deposed in consonance with the pleadings set out in the reference petition.

24. The said witness has further deposed that the Land Acquisition Officer failed to take into consideration the fact that the applicant was cultivating crops such as soybean, tur, cotton and groundnut in the acquired land and that the applicant was deriving annual income of approximately Rs.30,000/- per acre from such cultivation. However, the applicant has failed to substantiate the said assertion by leading any independent oral or documentary evidence in support thereof.

25. It is material to note that the 7/12 extract pertaining to the acquired property at Exhibit 43 and 44 indicates that the applicant was cultivating Kharif crops and that the source of irrigation was a bore well. The said 7/12 extract further reflects the existence of orange trees in the land admeasuring 3.20 H.R. This documentary evidence clearly establishes that the acquired land contained orange trees. Further documentary evidence in the form of the report of the Taluka Land Record Inspector and the joint measurement chart placed on record at Exhibits 48 and 49 respectively disclose that there were 1000 orange trees, 50 Lemon trees, 10 Java Plum/Jambhul trees, one well and one small house standing on the acquired land. The said evidence further

strengthens the case of the applicant that the acquired land was predominantly occupied by orange and lemon trees and that there was hardly any substantial space available for regular cultivation.

26. It is significant to note that the applicant's witness, namely Vijay (CW-2), has also deposed that there existed about 1000 orange trees, 50 lemon trees, 10 Java Plum/Jambhul trees, one well and one small house on the acquired land. During the course of cross-examination, the witness categorically stated that there was a reference of joint measurement in the record.

27. Learned counsel appearing for the non-applicants vehemently contended that the joint measurement chart was a fabricated document and that the number of orange trees had been deliberately inflated by practicing fraud. The witness Vijay, however, stated in his cross-examination that at the time of first measurement there were only 150 orange trees and that he was unable to explain as to how the number subsequently came to be increased. On the strength of this circumstance, learned counsel for the non-applicants submitted that the joint measurement report (Exhibit 49) ought not to be relied upon for determining the number of orange trees.

28. While considering the aforesaid submission, it is necessary to observe that the joint measurement report at Exhibit 49 clearly reflects that the measurement was conducted in the presence of the Acquisition Officer and the Land Record Officer in the year 2000.

Significantly, the non-applicants did not raise any objection to the said joint measurement report either prior to filing of the present reference or even thereafter until the cross-examination of the witness. Hence, the objection sought to be raised at such a belated stage does not inspire confidence and cannot be accepted.

29. Moreover, it is pertinent to note that witness Vijay specifically stated that only Mr. P.B.Barapatre who carried out the measurement, was competent to explain the discrepancy, if any. Despite such statement, the non-applicants failed to examine the said person. In these circumstances, an adverse inference deserves to be drawn against the non-applicants. Consequently, I am inclined to hold that the applicant has successfully proved the existence of 1000 orange trees, 50 lemon trees, 10 Java Plum/Jambhul trees, one well and one small house on the acquired land at the time of acquisition.

30. It is to be noted that learned counsel for the applicant has claimed separate compensation for the acquired land as well as for the orange trees standing thereon. However, in my considered opinion, the acquired property was essentially orchard land, namely land containing fruit-bearing trees, and therefore the applicant would not be entitled to separate compensation for land and fruit-bearing trees. It is a settled position of law that separate compensation for land and trees cannot ordinarily be granted where the acquired land itself is an orchard land containing fruit-bearing trees. In support of the said proposition,

reference may be made to the ratio laid down in *Bhuvendra Ramdhan Pawar vs. Vidharbha Irrigation Development Corporation* reported in *AIR 2021 SC 4393*, wherein the Hon'ble Supreme Court has held that if the market value of land has been determined with reference to sale statistics or compensation awarded for nearby vacant land, the trees would necessarily require separate valuation. However, where the valuation of land itself is based on sale instances or compensation pertaining to orchard land, separate valuation of fruit-bearing trees would not be permissible.

31. In the present matter, it is relevant to note that the applicant has neither produced on record any sale instance of nearby orchard land nor adduced any evidence demonstrating the market value of similarly situated orchard properties. The compensation determined by the Land Acquisition Officer appears to have been awarded by considering the land as irrigated agricultural land. Therefore, in the facts and circumstances of the case, separate valuation pertaining to orchard land with orange trees deserves to be undertaken.

32. The evidence available on record clearly establishes the existence of 1000 orange trees on the acquired land. Nevertheless, there is no satisfactory evidence regarding the age of the orange trees, their fruit-bearing capacity or the annual yield generated therefrom. In the absence of such material evidence, it would not be proper to award exorbitant compensation towards the orange trees. However, keeping in view the fact that the Land Acquisition Act is a beneficial legislation

intended to ensure just and fair compensation to landholders, and further considering the availability of irrigation facilities and the large number of orange trees standing on the acquired land, I deem it appropriate to determine compensation for each orange tree at the rate of Rs.1,500/-.

33. Similarly, I deem it appropriate to determine compensation for each lemon tree at Rs.500/- and for each Java Plum trees/Jambhul at Rs.1200/-.

34. So far as, the small house standing on the acquired land is concerned, it is to be noted here that, the documentary evidence particularly joint measurement report and report of Taluka Land Record Inspector corroborate the existence of small one house on the acquired land. However, the applicant has not produced evidence regarding estimated valuation of the house, age of the structure, nature of construction. In the absence of such a evidence, it would not be just to award compensation on higher scale. Nevertheless, considering the small structure of house and beneficial object of the Act, I deem it just and proper to award lumpsum compensation of Rs.25,000/- towards the said structure or small house. Similarly, I deem it just and proper to lumpsum compensation of Rs.10,000/- towards well.

35. It is to be noted here that, the applicant has failed to adduce any cogent evidence in support of his claim regarding stone

bandhis. In the absence of such a evidence, the compensation claim regarding stone bandhies is liable to be rejected.

36. Hence, Issue Nos.1 and 3 are answered partly in the affirmative.

**AS TO ISSUE NO.4-**

37. Apart from the enhanced compensation determined herein above, the applicant shall also be entitled to all statutory benefits available under the provisions of the Land Acquisition Act. Accordingly, the applicant shall be entitled to an additional amount at the rate of 12% per annum under Section 23(1A) of the Land Acquisition Act from the date of publication of notification till the date of award or till the date of taking possession, whichever is earlier. The applicant shall further be entitled to solatium at the rate of 30% on the enhanced amount of compensation under Section 23(2) of the Act.

38. The applicant shall further be entitled to interest on the enhanced amount of compensation inclusive of solatium and additional amount in accordance with Section 28 of the Land Acquisition Act, namely at the rate of 9% per annum for the first year from the date of taking possession and thereafter at the rate of 15% per annum till realization. However, if any amount has already been paid under protest, the same shall be liable to be deducted from the enhanced compensation amount.

**ORDER**

(1)	The reference petition is partly allowed.
(2)	The non-applicants are directed to pay jointly and severally the enhanced compensation of Rs. 1500/- per orange tree (total 1000 orange trees x 1500/- =15,00,000/-) 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 are directed to pay jointly and severally the enhanced compensation of Rs. 500/- per Lemon tree (total 50 Lemon trees x 500/- =25,000/-) to the applicant, after deducting the compensation already paid, in accordance with Section 23(1) of the Land Acquisition Act, 1894.
(4)	The non-applicants are directed to pay jointly and severally the enhanced compensation of Rs. 1200/- per Java Plum/Jambhul trees (total 10 Java Plum trees x 1200/- =12,000/-) to the applicant, after deducting the compensation already paid, in accordance with Section 23(1) of the Land Acquisition Act, 1894.
(5)	The non-applicants are further directed to pay jointly and severally the enhanced compensation of Rs.25,000/- towards the small house to the applicant, after deducting the compensation already paid, in accordance with Section 23(1) of the Land Acquisition Act, 1894.
(6)	The non-applicants are further directed to pay jointly and severally the enhanced compensation of Rs.10,000/- towards the well to the applicant, after deducting the compensation already paid, in accordance with Section 23(1) of the Land Acquisition Act, 1894.

(7)	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.
(8)	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.
(9)	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.
(10)	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.
(11)	The remaining claims of the applicant stand rejected.
(12)	Award be drawn up accordingly.

Ramtek.  
Date: 14/05/2026

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

**Endorsement**

Case argued on	:	14.05.2026
Judgment dictated on	:	14.05.2026
Transcription ready on	:	14.05.2026
Judgment checked and signed on	:	14.05.2026

**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)