

MHNG190003592025



Presented on : 25.03.2003

Registered on : 25.03.2003

Decided on : 08.05.2026

Duration : 23Y-01M-13D

(Exh.No. 52)

**IN THE COURT OF JT. CIVIL JUDGE SENIOR DIVISION, KATOL,
DISTRICT - NAGPUR**
(Presided over by M. Z. A. A. Q. Quraishi)
L.A.R.No. 200101/2003

**Shri Tulsiram S/o. Ajabrao Pedolia, (died
on 23.05.2009) through its LR's.**

- 1-A)** Smt. Prabhavati Wd/o. Tulshiram
Pedoliya, Aged about 60 years, Occu.:
Housewife,
- 1-B)** Ajay S/o. Tulshiram Pedoliya,
Aged about 43 yrs, Occu. Agriculturist,
- 1-C)** Pravin S/o. Tulshiram Pedoliya,
Aged about 38 yrs, Occu. Agriculturist,
All are R/o. Panwadi, Post-Khangaon,
Tah. Katol, Dist.-Nagpur.
- 1-D)** Sau. Pravin Pedolia W/o. Rupesh
Jukseniya, Aged about 40 years, Occu.:
Housewife, R/o. Chikhalagad, Post-Murti,
Tah. Katol, Dist.-Nagpur.

... Applicants

Versus.

- 1. State of Maharashtra,**
Through Collector, Nagpur.
- 2. The Special Land Acquisition Officer,**
K.N.P., Nagpur.
- 3. The Executive Engineer,**
Nagpur Irrigation Division (North),
Plot No. 13, Irrigation Colony,
Civil Lines, Nagpur.

**.. Non-
applicants.**

Adv. Shri A. R. Uttarwar for the applicants.
Adv. Shri Nitin A. Telgote for non-applicant Nos. 1 & 2
Adv. Shri A. G. Wandile for non-applicant No.3.

J U D G M E N T

(Delivered on this day of 08th day of May, 2026)

This reference is under Section 18 of the Land Acquisition Act (hereinafter referred to as L.A. Act for the sake of brevity) for the enhancement of the compensation amount.

2. The applicant is the owner of Survey No. 81/1 (out of) and 81/1 area 0.80 H.R. and 0.16 H. R. irrigated land situated at village Khangaon, P. H. No. 42, Dist. Nagpur. Out of said land 0.18 H.R. and 0.16 H.R. total 0.34 H.R. land has been acquired by the State for the purpose of Construction of Canel for Jam River Project of village Khangaon, P. H. No. 42 in L.A.C. Case No. 48/A-65/1997-98 dated 02.03.2001. The above acquired land is hereinafter referred to as "Acquired land" for the sake of brevity. The publication of notification under Section 4(1) of the LA. Act was published on 15.04.1999. The acquiring body has taken possession of the Acquired land. The applicants being dissatisfied with the rate of the compensation, they filed the reference for the enhancement of compensation amount.

3. The applicants have not given an opportunity to defend their case. The acquired land was fertile and irrigated land. The Special Land Acquisition Officer had awarded meager

compensation to the applicants. The Special Land Acquisition Officer had not considered the potential value of the acquired land because the market value of the land was Rs.3,00,000/- per Hectore prior to date of publication of notification under Section 4(i) of L.A. Act. The applicants are entitled for the enhanced compensation for the acquired land at the rate of Rs.3,00,000/- per HR, Rs. 1,96,000/- for 49 orange trees, Rs. 9,000/- for 03 lemon tree, Rs. 3,92,000/- for 56 Mosambi trees and Rs.60,000/- for damages i.e. total Rs.6,02,855/- (after deducting received compensation amount). The applicants are restricted their claim upto Rs.5,00,000/-.

4. Non-applicant No.3 has filed his Written Statement below Exh.7 and he has denied the claim and grounds raised by the applicants in the reference application. It is contended that, the compensation determined by the Special Land Acquisition Officer was correct and same was arrived after considering all other relevant factors like past sale-instances, quality and situation of the land etc. This reference is filed beyond the period of limitation. The applicants had not recorded their protest in writing before the Special Land Acquisition Officer while receiving the compensation. The applicants had not produced the substantial evidence or material during the acquisition proceeding to support their claim of the enhancement. Therefore, the applicants cannot raise the grievance at this stage and their reference is liable to be rejected.

5. Non-applicant Nos.1 and 2 have filed the pursis at Exh.9 and adopted the written statement (Exh.7) filed by non-

applicant No.3.

6. The then 16th Joint Civil Judge Senior Division, Nagpur has framed the issues below Exh.10 and same are reproduced with my findings thereon for the reasons given as below :-

<u>S.N.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1.	Whether the compensation awarded by S.L.A.O. is inadequate and not just and proper ?	-- Partly in affirmative.
2.	Whether the reference is within limitation ?	-- In the affirmative.
3.	Whether the claimant is entitled to enhance compensation ? If yes, what would be the amount ?	-- Partly in affirmative.
4.	What is the market price of the acquired land on the date of notification under section 4(i) of Land Acquisition Act ?	The market rate of the acquired land was Rs. 2,70,000/- per hector on the date of notification
5.	What order and award ?	-- Reference is partly allowed.

REASONS

7. The applicants have examined applicant No. 1-C Pravin Tulshiram Pedoliya as AW-1 at (Exh.21). The applicants have closed their evidence vide pursis Exh.44.

8. The applicants have relied upon the following

documents :

- (i) 7/12 extracts and gaonnamuna (Exh.24),
- (ii) certified copy of joint measurement report (Exh.25),
- (iii) certified copy of notices under section 4 (1) (Exh.26 and 27 respectively),
- (iv) original copy of notices under section 9 (1 & 2) of L.A. Act (Exh.28 and 29 respectively),
- (v) copy of notices under section 12(2) of L.A. Act (Exh.30 and 31 respectively),
- (vi) certified copy of award (Exh.32),
- (vii) certified copy of sale deed dated 04.06.1999 (Exh.33),
- (viii) Copy of letter dated 05.08.1999 at Art-A
- (ix) Copy of letter dated 31.08.2018 at Art-B.

9. Non-applicant Nos.1 and 2 have not adduced their evidence therefore, their evidence was closed on 03.07.2024.

10. Non-applicant No.3 has filed pursis Exh.45 and closed his evidence.

11. Adv. Shri. A.R. Uttarwar on behalf of the applicants has argued that, the applicants were the owner and possessor of Survey No.81/1 (out of) & 81/1, area 0.18 H.R. and 0.16 H.R. respectively i.e. total admeasuring 0.34 HR land of the Village Khangaon, Tah. Katol, which has been acquired by the State for the purpose of 'Construction of Canal for Jam River Project' at village Khangaon by the L.A. Case No.48A-65/1997-1998 dated

02.03.2001. The applicant has not given an opportunity to defend his case. The acquired land was fertile land and it was irrigated. The Special Land Acquisition Officer had awarded meager compensation to the applicant. The Special Land Acquisition Officer had not considered the potential value of the acquired land because the market value of the land was Rs.3,00,000/- per hecter prior to the date of publication of notification under Section 4(i) of L.A. Act.

12. He has further argued that, the applicants relied on the Sale deed (Exh.33) and as per its market rate they are entitled to get the enhanced compensation because their land is nearer to the land mentioned in the above sale deed. He has further argued that, the applicant had got the knowledge of the award at first time on 10.02.2002 and thereafter, they had filed this reference within the limitation. The applicants have proved that, the Special Land Acquisition Officer had not considered all the relevant factors at the time of the acquisition of the acquired land. The applicants are entitled for the enhanced compensation for the acquired land at the rate of Rs.3,00,000/- per HR, Rs. 1,96,000/- for Orange trees, Rs. 9,000/- for Lemon trees, Rs. 3,92,000/- for Mosambi trees and Rs.60,000/- for damages i.e. total Rs.6,02,855/-. He has further prayed that, in view of the above submissions, the applicants are entitled for the enhanced compensation for the acquired land and other items of Rs.6,02,855/- (after deducting the received compensation amount), along with all other benefits respectively.

13. Non-applicant Nos.1 and 2 have failed to argue the

matter therefore, their argument was closed on 16.01.2026.

14. Adv. Shri. A.G. Wandile on behalf of non-applicant No.3 has argued that, the compensation determined is just and proper and same is fixed after considering all the relevant factors like situation, potentiality and past sale-instances. The applicant has not recorded his protest in writing before the Special Land Acquisition Officer while receiving the compensation amount. The applicant has not filed the substantial evidence during the acquisition proceedings to support his claim of the enhancement. The reference is not filed within the limitation. He has further argued that, the applicants have no right to raise any grievance at this stage by way of this reference and they are not entitled for the enhanced compensation. He has further prayed that, the reference is liable to be dismissed with costs.

AS TO ISSUE NO. 1, 3 AND 4 :

15. Applicant No. 1-C Pravin Pedoliya (AW-1) has deposed that, he and other applicants were the owner and possessor of the land Survey Nos.81/1 (out of) and 81/1, admeasuring, total land admeasuring 0.18 HR and 0.16 HR respectively i.e. total admeasuring 0.34 H.R. land of the Village Khangaon which has been acquired by the State for the purpose of 'Construction of Canal for Jam River Project' at village Khangaon by L.A. Case No.48/A-65/1997-98 dated 02.03.2001. He has further deposed that, the agricultural potentiality of the land in question as well as the fact that, the adjoining areas of the acquired land being sold for

the much higher values and the lands are nearer to Katol, these factors were not considered by the Special Land Acquisition Officer while determining the market rate of the acquired land. The Special Land Acquisition Officer had granted the meager compensation for acquired land and trees.

16. He has further deposed that, their land was fertile land and having perennial source of water from nallah. The applicants not given an opportunity to defend his case. The Special Land Acquisition Officer had not considered the potential value of the acquired land because the market value of the land was Rs.3,00,000/- per Hector prior to date of publication of notification under Section 4(i) of L.A. Act. They are entitled for the enhanced compensation for the acquired land at the rate of Rs.3,00,000/- per HR, Rs. 1,96,000/- for Orange tree, Rs. 9,000/- for Lemon tree, Rs. 3,92,000/- for Mosambi tree and Rs.60,000/- for damages i.e. total Rs.6,02,855/-. He has further deposed that, they are entitled for the enhanced compensation for the acquired land and other items of Rs.6,02,855/- (after deducting received compensation amount), along with all other benefits respectively.

17. There is no dispute regarding the acquisition of the land Survey No.81/1 (out of) 81/1 admeasuring 0.18 HR, 0.16 HR respectively i.e. total admeasuring 0.34 HR land which was owned and possessed by the applicants and it was compulsorily acquired. The Special Land Acquisition Officer had granted the compensation to the applicants at the rate of Rs.62,000/- per hector for their acquired land and Rs.6,253/- for trees. However, there is dispute

regarding the adequacy of compensation amount as mentioned above. The non-applicants have not examined any witness on their behalf and no material is produced on record to show that, on what basis the Acquiring Authority has fixed the amount of the compensation. It is the settled position of law that, the Court cannot accept the material relied upon the Land Acquisition Officer in its Award, unless the same material is produced and proved before the Court. The Court is to treat the reference as original proceedings before it to determine the market value afresh on the basis of material produced before it. It is also settled law that, burden to prove that, the awarded amount is inadequate is always on the applicants. The applicants have to discharge the burden by producing the relevant materials, specially that, the acquired land and tree are capable for fetching high market value.

18. It is the contention of the non-applicants that, in spite of granting opportunities in the acquisition proceeding the applicants have not raised the objections regarding market value and also not produced any material to substantiate their claim of high market value. Therefore, according to the non-applicants, now the applicants are estopped from raising the objections regarding the market rate fixed by the Special Land Acquisition Officer. It is further contended by the non-applicants that, protest in writing was not recorded while receiving the compensation, therefore, the enhanced compensation cannot be claimed now by the applicants. The non-applicants have not pointed out any provisions which disentitle the applicants from claiming the enhanced compensation in

absence of written protest. The provisions of the Land Acquisition Act gives the right to the applicants to make the reference for the enhancement of the compensation. The filing of reference for the enhancement is itself a protest to the rate decided by the Acquiring Authority. In this context, the Hon'ble Bombay High Court in the matter of **Sk. Khaja Sk. Choota vs. State Of Maharashtra reported in (1991) 93 BOM L.R. 453**, held that "mere filing a reference application under Section 18 is itself a recorded protest within the meaning of the proviso to Section 31(2) of the Act. The very time, a land owner prefers a reference under Section 18 of the L.A. Act, he, in essence, disputes the compensation awarded and lodges a protest against the same. Hence, there is no bar to entertain reference though there is no proof of written objection".

19. Further, the Hon'ble Bombay High Court in the case of **Amol Rambhau Arjun Vs. State of Maharashtra, 2000 (4) Mh.L.J. 302**, observed that "oral protest by claimants while receiving compensation does not disentitle making application for Reference under section 18". Therefore, in view of the said legal position, the applicants are not dis-entitled to claim the enhanced compensation and the objections raised by the non-applicants is not sustainable.

20. The applicants have relied upon the Sale deed (Exh.33) which was executed in between Tulshiram Shankarraoji Khirwar and Yadavrao Sitaram Chopde. I have gone through the contents of the Sale deed (Exh.33). It reveals that, the land admeasuring 1.25 H.R. of survey No. 100, P.H. No. 42 of Mouza Khangaon, Tah. Katol, was sold for the consideration of Rs.2,00,000/- on 04.06.1999 i.e.

after the notification of Section 4(i) of L.A. Act on 15.04.1999. As the said sale-deed is executed after the notification of Section 4(i) of the L.A. Act, the same would be of no help to the applicants. Further, perusal of the Award Exh. 32 would show that the said sale-deed Exh. 33 is not included in the list of sale-deeds which were considered while passing the Award.

21. Though the above sale-deed cannot be considered to determine the market rate of the acquired land, however, the learned counsel for the applicants filed the copy of judgment in L.A.R. No. 102/2003 (Bhagirathibai W/o. Dharamraj Pedoliya and Ors. V/s. State & Ors.) delivered on 20.04.2024 along with pursis Exh. 46. The land under said judgment is pertaining to the land survey No. 84/3, 84/2 and 84/4 admeasuring 0.21 H.R., 0.19 H.R. and 0.21 H.R. respectively i.e. total admeasuring 0.61 H.R. land, P.H. No. 42 of village Khangaon, Tq. Katol. Further, it appears from the said judgment that, the land in the said judgment was acquired under the same award on dated 02.03.2001. In the above matter, my learned predecessor has determined the market rate of the acquired land area 0.61 H.R. at the rate of Rs.1,80,000/- per hector as an enhanced compensation for Jirayat land.

22. Now, it is to be seen whether the acquired land is the dry crop land (Jirayat land) or irrigated land. In this regard, the record reveals that the applicant did not examine any expert witness. If the copy of Joint Measurement Report Exh. 25 is perused, it appears that there is entry of 67 mosambi trees of 2 years old and 2 lemon trees of 10 years old in survey No. 81/1.

Likewise, there is entry of 57 orange trees of 1 year old and 1 lemon tree of 10 years old in Survey No. 81/1 (out of). If the 7/12 extract of survey No. 81/1 (Exh. 24) is perused, there is entry of well in it and in column No. 9 in respect of the crop, there is entry of orange and mosambi trees as well as of different crops like jawar, tur, gram, soyabean etc. Said entry is upto the year 2002 to 2001-2002. The award is of dated 02.03.2001. Further, it appears from the E statement of the Award (Exh. 32) that an amount of Rs. 6,253/- was granted for fruit trees. Thus, it has come on record that at the time of acquisition of the land, there was facility of water. Therefore, I hold that the acquired land was seasonal irrigated land. As the land in the instant case and as mentioned in LAR No.102/2003 was acquired under same award, the reference is admissible to this reference on the ground of parity because the acquired land is also of the same village and it is acquired for the same purpose on 02.03.2001. As stated earlier, in earlier judgment, in LAR No. 102/2003 (Bhagirathibai W/o. Dharamraj Pedoliya and Ors. V/s. State & Ors.) delivered on 20.04.2024 the rate of Jirayat land was determined at the rate of 1,80,000/- per hector. It is held that, the acquired land was seasonal irrigated land, therefore, its rate at the relevant time of acquisition is to be determined at the rate of Rs. 2,70,000/- per hector.

23. The applicants have proved that, the valuation made by the Special Land Acquisition Officer was improper, inadequate and not as per the market value. It seems that, the Special Land Acquisition Officer by ignoring the above said rate granted

compensation to the applicants, which is certainly inadequate and not as per the then market rate of the land. The evidence adduced by the applicants are trustworthy and reliable. It is worth to mention here that, the non-applicants did not adduce the evidence of the Special Land Acquisition Officer and therefore, it has not come on record that on what basis and under what circumstances, the market value of the land had been determined by the non-applicants. Thus, the observation, finding and conclusion of the Special Land Acquisition Officer in determining the market value of the applicant's land is held unjust and improper. Though, the applicants have failed to prove that, the market price of the acquired land was more than Rs.3,00,000/- per hector prior to date of notification under section 4(i) of the Land Acquisition Act, however it is proved by them that prior to the said notification, the market value of the acquired land was Rs. 2,70,000/- per hector.

24. Therefore, considering all these above discussions, I am of the view that, if the market rate determined for the acquired land admeasuring 0.34 HR at the rate of Rs.2,70,000/- per hector as an enhanced compensation then it will be just and proper.

25. The applicants have also claimed the enhanced compensation of Rs. 1,96,000/- for 49 orange trees, Rs. 9,000/- for 03 lemon tree, Rs. 3,92,000/- for 56 Mosambi tree and Rs.60,000/- for damages i.e. total Rs.6,02,855/- (after deducting received compensation amount). To discharge the burden to prove the annual yield and market rate of the trees in the year of notification, the applicants have examined 1-C Pravin however the applicants

have not examined any expert valuer. I have perused the Award (Exh.32) and Appendix-E. Said Appendix-E shows that an amount of Rs. 6253/- was awarded for fruit trees. Though, the applicants urged that said compensation was inadequate, however the applicants did not adduce the expert evidence to establish their said contention. The applicants must have adduced the evidence of expert valuer in support of their contention. Therefore, I am of the view that, the applicants have failed to prove that, the Special Land Acquisition Officer had granted the meager compensation for the trees. Likewise, the applicants have also did not lead any evidence to prove their claim for damages. Therefore, the applicants are not entitled for the enhanced compensation for the trees and damages.

26. In view of above discussions, it is hold that, the applicants are entitled to get 12% additional component under Section 23(1-A) and 30% solatium under Section 23(2) of L.A. Act. They have also entitled to get the interest on the enhanced compensation at the rate of 9% p.a. from the date of Award for the first year and at the rate of 15% p.a. for the subsequent period till the date of deposit of such enhanced amount into the Court. Therefore, I recorded my finding on issue Nos.1 and 3 partly in affirmative and issue No. 4 accordingly.

As to Issue No.2.

27. The non-applicants have raised the objection of the limitation. As per Section 18 of L.A. Act limitation of 6 weeks i.e.42 days for filing the application from the date of receipt of notice under Section 12(2) of L.A. Act is prescribed. The applicants have

contended that, they have got the knowledge of the Award for the first time on 12/02/2002. The non-applicants have possessed the necessary record with them, but they have not filed any documents to show that, when the notices were actually served upon the applicants. The applicants have knowledge of the passing of award on 12/02/2002 and that date be reckoned as starting point of the limitation. I have perused the summary application dated 25/10/2002 forwarded by the Special Land Acquisition Officer, Kanholi Nalla Project, Nagpur which is at Exh.2 in its Para No.4 it is clearly mentioned that "*The application for reference under section 18 of the Land Acquisition Act, 1894 is received within time limit*". In view of the above discussion, it is hold that, the reference application is presented within limitation. Therefore, I recorded my findings on issue No.2 in affirmative.

As to issue No.4

28. I have already discussed on issue Nos.1 to 3 and given my findings thereon. Therefore, I pass the following order.

ORDER

1. The reference is partly allowed.
2. The non-applicants do jointly and severally pay the enhanced compensation amount at the rate of Rs.2,70,000/- (Rupees Two Lakh Seventy Thousand only) per hectore to the applicants for their acquired land admeasuring total **0.34 HR** of Survey No.81/1 (out of) 81/1 respectively of village Khangaon, Tah. Katol, Dist. Nagpur.
3. The non-applicants do pay to the applicants

additional component at the rate of 12% p.a. as per Section 23 (1-A) of L.A. Act, on the enhanced amount of compensation for the acquired land from the date of notification under Section 4(i) of the L.A. Act, till the date of the Award.

4. The non-applicants do jointly and severally pay to the applicants as a solatium @ 30% as per Section 23(2) of L.A. Act, on the enhanced amount of compensation of the acquired land.
5. The non-applicants do pay to the applicants an interest on the excess amount of the compensation at the rate of 9% p.a. from the date of Award for the first year and at the rate of 15% p.a. for the subsequent period till the date of deposit of such enhanced amount into the Court.
6. The compensation amount which was already paid to the applicants be deducted from the total enhanced compensation amount.
7. The applicants are directed to pay the deficit Court fees, if any, within one month from the date of this order.
8. The claim of the applicants pertaining to the enhanced compensation for the trees and the damages is hereby dismissed.
9. Parties to bear their own costs.
10. Award be drawn up accordingly.

Date : 08.05.2026

(M.Z.A.A.Q. Quraishi)
Civil Judge Senior Division,
Katol

Endorsement

Case argued on	:	08.05.2026
Judgment dictated on	:	08.05.2026
Transcription ready on	:	08.05.2026
Judgment checked and signed on	:	08.05.2026

CERTIFICATE

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

Name of Stenographer : P T. Mandale (Steno-Gr. II)
attached to Civil Judge (Sr.Dn.),Katol.