

MHNG190007172025



Presented on : 10.08.2016

Registered on : 10.08.2016

Decided on : 02.05.2026

Duration : 09Y-08M-22D

(Exh. No. 31)

**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KATOL,  
DISTRICT - NAGPUR**

(Presided over by M. Z. A. A. Q. Quraishi)

**L.A.R. No. 168/2016**

Shewantabai Mahadeo Dangar (Dead)  
Through her L.R.'s

- A** Sau. Chandrakala Dattu Wanjari,  
Aged about 71 years, Occ. Cultivator,  
R/o. Malkapur, Warud, Dist. Amravati
- B** Smt. Bebi Shankarrao Belkhade,  
Aged about 62 years, Occ. Cultivator,  
R/o. Karanja, Dist. Wardha
- C** Smt. Sunandabai @ Kalpana Jadishrao  
Shelake,  
Aged about 60 years, Occ. Cultivator,  
R/o. Linga, Waud, Narkhed, Dist. Nagpur
- D** Sau. Nirmala Dnyaneshwar Malode,  
Aged about 58 Years, Occ. Housewife,
- E** Shri. Krushnaji Mahadeorao Dangar,  
Aged about 49 years, Occ. Cultivator,  
D & E R/o. Muktapur, Jalalkheda,  
Tq. Narkhed, Dist. Nagpur.

**... Applicants**

**- Versus -**

- 1. The Executive Engineer,  
Nagpur Medium Project Division, Nagpur**
- 2. The Collector, Nagpur, Through the Special**

Land Acquisition Officer K.N.P.  
Collectorate, Nagpur.

... **Non-**  
**applicants.**

-----  
Adv. Shri D. B. Barsagade for the applicants.  
Adv. Shri A. G. Wandile for non-applicant No. 1  
Adv. Shri N. A. Telgote for non-applicant No. 2  
-----

### **J U D G M E N T**

(Delivered on 2<sup>nd</sup> day of May, 2026)

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

2. The applicants are the owner and possessor of the land Survey No.90 and 91/2 admeasuring 3.50 H.R. of the Mouza Peth Ismailpur, P. H. No.31, Tah. Narkhed, Dist. Nagpur, out of which land admeasuring 0.24 HR has been acquired by the State for the purpose of 'Construction work of Mirzapur Canal No. 1 under Jam River Project by L.A. Case No.20/A-65/2005-06 of dated 31.03.2010. The above acquired land is hereinafter referred as "Acquired Land". The publication of notification under Section 4 and 6 of the L.A. Act were published on 17.05.2007 and 11.09.2008 respectively. The acquiring body has taken the possession of the acquired land. The applicant being dissatisfied with the rate of the compensation, they filed the reference for the enhancement of compensation.

3. The applicants were cultivating the acquired land since long to maintain the livelihoods and maintenance of the family. The

acquired land was good quality fertile land. The applicant used to cultivate their land by source of water from electric pump and oil engine and also facilities was available for irrigation of land from the neighbour and the land irrigated by Nalla, River, Well and Bore well etc. to give the water to the growing crops. The applicants used to take the Kharip and Rabbi crops i.e. Soyabin, Tur, Paddy, Chilli, Wheat, Chana, Mung, Brinjal and Tomato. They also had the income from fruit trees and used to earn Rs.65,000/- from said fruit trees and crops per annum. The village of the applicants is situated nearby the National Highway Road i.e. Nagpur to Warud via Jalalkheda approach road from Jalalkheda to Peth Ismailpur and onwards to Mahendri. The village is within 8 to 32 KM from Bharsingi and Jalalkheda in Narkhed Tahsil. The most of the villagers do not desired to sell the land and even if the needy person sale the land, its prices are more than Rs.15,00,000/- to Rs.20,00,000/- per hectores.

4. The Special Land Acquisition Officer had awarded the compensation for the acquired land by ignoring the facts and the prices of the land. The Special Land Acquisition Officer had not considered the potential value of the acquired land and awarded the compensation of Rs.60,798/- and not considered the other trees in the acquired land. The applicant is entitled for the enhanced compensation for the acquired land at the rate of Rs.15,00,000/- per hector, i.e. Rs. 3,60,000/- including the damage of paddy land and Rs. 50,000/- for Shiwan, Babul, Saag and Bamboo trees). Therefore, the applicant is entitled for the above enhanced

compensation of Rs.3,49,202/- (after deducting the awarded compensation).

5. Non-applicant No.1 has filed his Written Statement below (Exh.6) and he has denied the claim and grounds raised by the applicant in the reference application. It is contended that the notices under Section 9(1) (2) of the L. A. Act were issued and published before acquisition of the land. However, the applicants have failed to produce any documentary evidence before Special Land Acquisition Officer in respect of the compensation to be received for their land. The applicants have not come with clean hands. They made the baseless allegations with an ulterior motive to extract more money under the garb of enhancement of compensation though adequate compensation was awarded to the applicant. He has further contended that, the compensation determined by the Special Land Acquisition Officer was correct and same was arrived after considering all other relevant factors. This reference is filed beyond the period of limitation. The applicants have not recorded their protest before the Special Land Acquisition Officer while receiving the compensation. The applicants have 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.

6. Non-applicant No.2 has filed the pursis at Exh.7 and adopted the written statement (Exh.6) of non-applicant No.1.

7. The then 15<sup>th</sup> Jt. Civil Judge Senior Division, Nagpur has framed the issues below Exh.9. I have reproduced the same with my findings thereon for the reasons are enumerated below :-

<u>S.N.</u>	<u>ISSUES</u>	<u>FINDINGS</u>
1.	Does the claimant prove that 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 affirmative.
3.	Whether the claimant is entitled for getting enhance compensation? If yes, what would be the amount ?	Partly in affirmative. Rs. 2,00,000/- per hector
4.	What order and award ?	Reference is partly allowed.

### REASONS

8. During the pendency of the reference, the original applicant Shewantabai Mahadeo Dangar has died and therefore her legal representatives were brought on record as per order dated 13.07.2023 below Exh.15. The applicants have adduced the evidence of applicant No. 1-E Krushnaji Mahadeorao Dangar as AW-1 at Exh. 18. The applicant has closed his evidence vide pursis Exh. 27. The applicant has relied upon the following documents :

- (i) Award dated 31.03.2010 (Exh.19),
- (ii) copy of notice under section 12(2) of L.A. Act (Exh.20),

- (iii) Xerox copy of notice under section 12(2) of L.A. Act (Exh.21),
- (iv) Extract copy of 7/12 (Exh.22),
- (v) Extract copy of 7/12 (Exh.23),
- (vi) copy of jamabandi patrak (Exh. 24)
- (vii) copy of Map (Exh.25),
- (viii) copy of sale deed dated 11.05.2007 (Exh.26)
- (ix) The copy of map and certificate issued by Village Officer filed alongwith list Exh. 26.

**9.** Non-applicant No.1 did not adduce evidence and closed his evidence vide pursis Exh.28.

**10.** Adv. Shri. D.B. Barsagade on behalf of the applicants has argued that, the applicants are the owner and possessor of the Survey No.90 and 91/2 admeasuring 3.50 H.R., out of which land admeasuring 0.24 HR, was acquired by the State for the purpose of "Construction work of Mirzapur Canal No. 1 under Jam River Project'. The Special Land Acquisition Officer did not consider the agricultural potentiality of the land in question while determining the market rate of the acquired land. He also did not consider the fact that, the adjoining areas of the land being sold for the much higher values and the land is nearer to Narkhed and Katol. The market rate of the acquired land during the relevant period was Rs.15,00,000/- to Rs.20,00,000/- per hector.

**11.** He has further argued that, the applicant relied on the Sale deed (Exh.26) and Judgments which were delivered on

21.08.2024 in L.A.R. No.313/2013 (Naresh Tembhekar Vs. The Executive Engineer & Ors) and judgment in L.A.R. No. 70/2013 (Shrikrishan Wamanrao Shelke and Ors. Vs. The Executive Engineer & Ors) delivered by me on 23.01.2026. He has further argued that, as per the market rate of land mentioned in the above sale deed and the market rate of the land involved in the above Judgment the applicants are entitled to get the enhanced compensation because their land is nearer to the land mentioned in the said sale deed and in the said Judgment. He has further argued that, the applicants have got the knowledge of the Award at first time on 12.07.2010 and thereafter, the instant reference is filed within the limitation. He has further argued that, 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. He has further prayed that, in view of the above submissions, the applicants are entitled for the enhanced compensation of Rs. 3,60,000/- including the damage of paddy land, at the rate of Rs.15,00,000/- per HR and Rs. 50,000/- for Shiwan, Babul, Teak wood and Bamboo trees.

**12.** Adv. Shri. Wandile on behalf of non-applicant No.1 has argued that, the compensation determined by L.A.O. is just and proper and same is fixed after considering all the relevant factors like situation, potentiality and past sale-instances. The applicants have not recorded their protest in writing before the Special Land Acquisition Officer while receiving the compensation amount. The applicants have not filed the substantial evidence during the

acquisition proceedings to support their 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. On these premises, the learned Advocate prayed to dismiss the reference with costs.

**13.** Non-applicant No.2 has failed to argue the matter, therefore his argument was closed on 28.08.2024.

**AS TO ISSUE NO. 1 AND 3 :**

**14.** AW- 1 Krushnaji has deposed that, the applicants are the owner and possessor of the land Survey No.90 and 91/2 admeasuring 3.50 HR of the Mouza Peth Ismailpur, P. H. No.31, Tah. Narkhed, Dist. Nagpur, out of which admeasuring 0.24 HR land has been acquired by the State for the purpose of 'Construction work of Mirzapur Canal No. 1 under Jam River Project'. He has dissatisfied with the rate of the compensation. He has further deposed that, the Special Land Acquisition Officer had awarded the compensation for the acquired land by ignoring the facts and the prices of the land. The Special Land Acquisition Officer had not considered the potential value of his land. The Special Land Acquisition Officer had awarded the inadequate compensation of Rs.46,961/- for the acquired land with other benefits at the rate of Rs.1,57,900/- per hectore. He has further deposed that, prior to the initiation of the acquisition proceedings in the vicinity of village Peth Ismailpur the market rate of the acquired land was more than Rs.15,00,000/- per hectore. The

applicants are entitled for the enhanced compensation for the acquired land at the rate of Rs.15,00,000/- per hector and also entitled for Rs. 50,000/- for Shiwan, Babul, Teak wood and Bamboo trees).

**15.** There is no dispute regarding the acquisition of the land Survey No.90 and 91/2 admeasuring 0.24 HR land which was owned and possessed by the applicants and it was compulsorily acquired. The Special Land Acquisition Officer had granted the compensation of Rs.30,001/- to the applicants at the rate of Rs.1,57,900/- per hector for the acquired land. 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 by 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, other trees are capable for fetching high market value.

**16.** 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 is 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 compensation. The filing of reference for the enhancement is itself a protest to the rate decided by the Acquiring Authority. Therefore, the applicants are not dis-entitled to claim the enhanced compensation and the objections raised by the non-applicants are not sustainable.

**17.** The applicants have relied upon the sale deed (Exh.26) which was executed in between Rameshwar Krushnarao Bhalsagar and Suryakant Soniram Nanotkar. I have gone through the contents of the sale deed (Exh.26) and from it reveals that, the land admeasuring 1.10 H.R. of Survey No. 173/2 of mouza Khadki, Tah. Narkhed was sold for the consideration of Rs.3,20,000/- vide sale-deed No. 737 dated 10.05.2007 i.e. before the notification of Section 4(i) of L.A. Act on 17.05.2007 and the notification of

Section 12 (2) of L.A. Act on 12.07.2010 respectively. The four boundaries of the said land which is mentioned in the sale deed (Exh.26) are, towards the Eastern side – Karanjoli Khadki Shiv, Western side - Field of Madhukar Govindrao Choudhary and Meghsham Nanotkar of survey No. 174 and 176, Northern side - Field of Ganeshrao Nanotkar, Chandrakant Nanotkar and Chandrabhaga Nanotkar and Southern side – Karanjoli Khadki Shiv. This indicates that, the land mentioned in the sale deed (Exh.26) is adjacent to Karanjoli Khadki Shiv. In such circumstances, the value of land mentioned in the sale deed (Exh.26) will naturally be more than other lands. Though, the applicants have filed the village map of Peth Ismailpur, however it does not contain the name of village Khadki as well as survey No. 173/2. Therefore, the said sale-deed would be of no use to the applicants. The aforesaid market price of the land under said instance cannot be relied as it is unless there is complete similarity in regard to the nature, size, locality and shape of the land between the land covered by the above sale instance and the acquired land. Therefore, it is not proper to rely on the market rate of the land which was situated in mouza Khadki i.e in sale instance (Exh.26) to fix the market value of the acquired land of mouza Peth Ismailpur.

**18.** The Judgment which was relied by the applicant was delivered on 21.08.2024 by my predecessor in L.A.R. No.313/2013 (Naresh Raybhan Tembhekar Vs. The Ex. Engineer & Another), I have perused the said Judgment. It is pertaining to the land of village Datewadi. In para 20 of the said judgment, there is

reference of judgment in LAR No. 243/2012 (Baburao Vs. Chief Ex. Director and Ors.) delivered on dated 30.01.2019. Para 26 and Para 27 of the judgment in LAR No. 243/2012 are quoted in the judgment in LAR No. 313/2013.

19. In paragraph 26 of the judgment in LAR No. 243/2012 (Baburao Vs. Chief Ex. Director and Ors) it is discussed that, *“In the backdrop of this proposition of law, I proceed to see whether the previous judgment can be relied upon. In said judgment, this Court has fixed the rate of Rs.3,00,000/- per hector for semi irrigated land. The land from the said judgment as well as acquired land were acquired for same project and under same award. Moreover, the respondents did not file any material on record to show that the quality of acquired land was inferior than that of land mentioned in LAR No.899/2009. Hence, there is no reason to take different view. In the result, considering the facts and circumstances brought on record, I am of the opinion that on the ground of a parity, LAR No.899/2009 is suitable and applicable to determine market value of the acquired land. Hence, same criteria will have to be applied for fixing market price of acquired land. Thus, considering the aforesaid sale instance and judgment in LAR No.899/2009 and other plus-minus points, the market value of acquired land is determined as Rs.3,00,000/- per hector as on date of notification under Section 4 of the L.A. Act.”*

20. In para 27 of the judgment in LAR No. 243/2012 (Baburao Vs. Chief Ex. Director and Ors.) delivered on dated 30.01.2019, it is held that, *“To conclude these issues, it is observed*

*that the claimant has proved that the valuation made by the SLAO is improper, inadequate and not as per the market value. It seems that the Land Acquisition Officer by ignoring the above said rates granted compensation to the claimant, which is certainly inadequate and not as per the then market rate of the lands. The evidence adduced by claimant is trustworthy and reliable. It is worthwhile to mention here that respondents did not adduce the evidence of Land Acquisition Officer and therefore, it is not known as to on what basis and under what circumstances, the market value of the land has been determined by the respondent Nos.1 to 4. Thus the observation, finding and conclusion of the Special Land Acquisition Officer in determining the market value of claimant's land is held unjust and improper. Thus, the claimant has successfully proved that the market price of the acquired land is fixed to Rs.3,00,000/- per hector. In view of foregoing discussion, I hold that the market value of acquired land at the time of publication of notification under section 4 was at the rate of Rs.3,00,000/- per hector for seasonal irrigated land.”*

**21.** By taking the reference of the judgment in L.A.R. No. 243/2012, (Baburao Vs. Chief Executive Director & Ors) the market value of the land which was the subject of L.A.R. No. 313/2013 (Naresh Raybhan Tembhekar Vs. The Ex. Engineer & Another) was decided in L.A.R. No. 313/2013 and the rate for the acquired land was determined at the rate of Rs.2,00,000/- per hector for the dry crop land as an enhanced compensation. Likewise, by relying on the judgment in L.A.R. No. 313/2013 (Naresh Raybhan Tembhekar

Vs. The Ex. Engineer & Another), I have determined the value of the land in L.A.R. No. 70/2013 (Shri Krishna Wamanrao Shelke and Ors Vs. The Executive Engineer & Ors.) and the value of the land is determined at the rate of Rs. 2,00,000/- per hectore as an enhanced compensation for dry crop land. In the instant case, as reveals from the award Exh. 19 that the said land is also the dry crop land. On the basis of documentary evidence in L.A.R. No. 70/2013 (Shri Krishna Wamanrao Shelke and Ors Vs. The Executive Engineer & Ors.) it is held that, village Peth Ismailpur is situated near Datewadi Shiv. The same documentary evidence is filed in the present case at Exh. 25 and 31 i.e. village map of village mouza Peth Ismailpur which show that the said village is situated near Datewadi Shiv.

**22.** The applicants at the same time have proved that, the acquired land situated at mouza Peth Ismailpur is near the land which was the subject matter of L.A.R. No. 313/2013 (Naresh Raybhan Tembhekar Vs. The Ex. Engineer & Another) which is situated at mouza Datewadi. In L.A.R. No. 70/2013 (Krishna Shelke & Ors. Vs. The Executive Engineer & Another), it is held on the documentary evidence that, the village Peth Ismailpur is situated near Datewadi Shiv. In L.A.R. No. 70/2013, the value of the acquired land is determined on the ground of parity as per the rate given in L.A.R. No. 313/2013. The land in L.A.R. No. 313/2013 is also acquired for the same purpose in the same year. In the above matter, my predecessor has determined the market rate of the acquired dry crop land area 0.11 H.R. at the rate of Rs.

2,00,000/- per hectore as an enhanced compensation. The above market rate is admissible to this reference because the acquired land is also the dry crop land and acquired for the same purpose. Therefore, it will be proper to rely upon the determined market rate of the acquired land in the above reference i.e. in L.A.R. No. 313/2013 and L.A.R. No. 70/2013 to this reference on the ground of parity.

**23.** Therefore, considering all these above aspects, I am of the view that, determining the acquired land admeasuring 0.24 H.R. at the rate of Rs. 2,00,000/- per hectore as an enhanced compensation will be just and proper.

**24.** The applicants have also claimed the compensation of Rs. 50,000/- for other trees i.e. Shiwan, Babul, teak woods Bamboo which were standing in the acquired land. To discharge the burden to prove the annual yield and market rates of other trees in the year of notification, the applicant has examined himself. If, the evidence of the applicant is not considered regarding existence of said trees, then also in the acquired land, other trees were standing or not at the time of its acquisition it can be ascertained and verified from the Award (Exh.19). Thereafter, the question only remains that, whether the applicants are entitled for the compensation for the other trees as per the Award (Exh.19). I have perused the Award (Exh.19). It reveals that, in the acquired land other trees were not mentioned. There is no whisper from the award that there were other trees in the acquired land. The applicants have failed to prove that, at the time of acquisition, there

were other trees standing in the acquired land. Therefore, the applicants are not entitled for the compensation for other trees.

**25.** In view of above discussions, it is hold that, the applicant is entitled to get 12% additional component under Section 23(1-A) and 30% solatium under Section 23(2) of L.A. Act. The applicant is 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 findings on issue Nos.1 and 3 partly in affirmative.

**AS TO ISSUE NO. 2 :**

**26.** 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 applicant has contended and deposed that, he got the knowledge of the Award for the first time on 12.07.2010 that is on receipt of notice under section 12(2) of the L.A. Act. In cross-examination of the applicant, nothing is brought to disbelieve him in respect of his contention regarding the knowledge of Award on 12.07.2010. The non-applicants have possessed the necessary record with them, but they have not filed any document to show that, when the notices were actually served upon the applicants. The applicants have knowledge of the passing of award on 12.07.2010 and that date be reckoned as starting point of the limitation.

27. I have perused the summary application dated 29.07.2016 forwarded by the Office of the Deputy Collector (Land Acquisition), Kanoli Nallha 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 limit*”. In view of the above discussion, it is hold that, the reference application is presented within limitation. Therefore, I recorded my finding on issue No. 2 in the affirmative.

**AS TO ISSUE NO. 4 :**

28. In view of findings to issue No. 1 and 3, the reference deserves to be partly allowed. In the result, 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.2,00,000/- (Rupees Two Lakh only) per hector to the applicants for their acquired land bearing Survey No.90 and 91/2, admeasuring 0.24 HR. of village Peth Ismailpur, Tah. Narkhed, 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(1) 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.
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 compensation for other trees is hereby dismissed.
  9. Parties to bear their own costs.
  10. Award be drawn up accordingly.

Date : 02.05.2026

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

**Endorsement**

Case argued on	:	29.04.2026
Judgment dictated on	:	02.05.2026
Transcription ready on	:	02.05.2026
Judgment checked and signed on	:	02.05.2026

**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.