MHOS120000352019	Received on	:	15.01.2019
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	Decided on	:	05.08.2026
	Duration	:	Y M D
		:	07 06 21

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, BHOOM, DIST: OSMANABAD

(PRESIDED OVER BY : BHAGWAN D. PANDIT)

LAND ACQUISITION REFERENCE NO. 58/2019

Exh. No. 27

Jagannath Maruti Sabale **(Died)**,
THROUGH LEGAL HIERS

1. Dharmaraj Jagannath Sabale,
Age: 40 years, Occu.: Agriculture,
R/o. Tintraj, Tal. Bhoom,
Dist. Osmanabad;

2. Yuvraj Jagannath Sabale,
Age: 40 years, Occu.: Agriculture,
R/o. As above **........ CLAIMANTS**

// **VERSUS** //

1. State of Maharashtra,
THROUGH
Collector,
Collector Office, Osmanabad;

2. The Executive Engineer,
Minor Irrigation Division, Osmanabad
(Percolation Tank Tintraj No. 2),
Dist. Osmanabad;

3. Special Land Acquisition Officer,
No. 2, Osmanabad,
Dist. Osmanabad **......... RESPONDENTS**

CLAIM : Reference under section 18 of
Land Acquisition Act, 1894 ...

Learned advocate shri. S. S. Kharsade for claimants
Learned AGP shri. K. D. Kolpe for respondents No. 1 & 3
Ex-parte against respondent No. 2

-: JUDGMENT :-
(Pronounced on 05th day of August 2026)

01. Claimants are, in this reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred as '**the Act**' for convenience), seeking enhancement of compensation awarded for acquisition of their agricultural land for construction of percolation tank Tintraj No. 2. They have averred to support their claim as under:

That, Special Land Acquisition Officer, Medium Project No. 2, Osmanabad (*in short* '**SLAO**') has acquired their landed property in Survey No. 389, to the extent of 50R, situated at village Tintraj, Tq. Bhoom, Dist. Osmanabad in Proceedings No. 2004/LAQ/A/40 culminated into an award of dated 31.08.2009 of SLAO.

That, SLAO, after completing joint measurement had issued notice under section 9(3) (4) of the Act, so they approached to his office and claimed compensation as per market-value of acquired land, other improvements, 3 stone-bandhs, 10 custard apple trees, 9 ber trees, for severance etc. as well as satisfied as to location of acquired land, but he has not considered their claim and passed award without any prior notice granting inadequate compensation. He has awarded compensation for acquired land Rs. 54,780/- including solatium and interest, but has not awarded any compensation for rest of the improvements, trees etc. SLAO had issued notice under section 12(2) of the Act on dated 29.04.2010 which they received on dated 07.05.2010, so withdrawn awarded compensation reserving right to seek enhancement and requested to forward their reference to the court.

That, the acquired land was fertile, black cotton soil possessing irrigation facility. Because of availability of water they used to cultivate two seasonal crops every year and taking per year income of Rs. 1,00,000/-. They had also enhanced fertility and productivity of acquired land by their labour, raising bandhs, using fertilizers. The acquired land was situated adjoining the village and nearby road and highway, so very well connected with transport facility. Not only this, the village has all required amenities, so lands surrounded it has the high prices. Those have also non-agricultural potentiality. Owing to these advantageous features the market-value of the acquired land on the date of notification under section 4 of the Act was not less than Rs. 2,00,000/- per acre.

That, SLAO has granted inadequate compensation for their acquired land and had not granted anything for 3 stone-bandhs, custard apple and ber trees as well as for severance. Whatever principles adopted by him for ascertaining the compensation were neither relevant, nor legal and equitable. Acquired land was in command area of Kada Ashti Farmers Co-operative Sugar Factory, Ltd., Kada, Adinath Farmers Co-operative Sugar Factory, Ltd. & Others and it was situated near to the State Highway. There are many facilities i.e. Grampanchayat, Schools, High Schools, Electricity supply, water supply, transportation, private dispensaries, hospitals etc. available nearby as well civil amenities there, so market-value of acquired land was high, but all these things have not considered by SLAO, but while passing the award the SLAO awarded either no compensation, or wholly inadequate compensation for all these assets. There was total compensation awarded by the SLAO of Rs. 66,000/- per hector which doesn't represent the true market value of the acquired lands, therefore, they are seeking enhancement as under:

SERIAL NO.		**DESCRIPTION**	**MARKET PRICE**
1		Acquired land @ Rs. 2 lacs per acre: Acquired portion 50R	2,50,000
2		Custard apple trees: 10	20,000/-
3		Ber trees: 9	18,000/-
4		Stone-bandhs: 3	50,000/-

5		For severance	25,000/-
Total :			3,63,000/-

and requested to allow their reference and enhance compensation as sought.

02. Respondents No. 1 & 3 have presented their written statement vide Exh. 16 and admitted the acquisition of lands of claimants, passing of award by respondent No. 3, but flatly denied that, he has awarded inadequate compensation without awarding opportunity of hearing to claimants. They have denied that, SLAO has wrongly passed award without notices of claimants and awarded inadequate compensation. They have contended that, respondent No. 3 had followed due procedure as per law by issuing various notices to claimants, but neither they had replied, nor led any evidence which will show that, acquired lands were of higher market-value, so according to them, whatever ascertainment of market-value of acquired land by respondent No. 3 was reasonable and adequate. They have also contended that, acquired lands were dry and having low fertility. There were also not so many facilities to village within which acquired lands are situated, nor those are adjacent to any Highway, or near to any market place, so whatever compensation awarded by respondent No. 3 was reasonable and sufficient. Claimants have not availed opportunities awarded by respondent No. 3 to lead evidence as to market-value of acquired lands, so they have no right to challenge Award.

Respondent No. 3 has also considered sale instances of three years prior of notification as per procedure and awarded adequate compensation to claimants. According to them, claimants have sought exorbitant enhancement in compensation, so their claim is false, hence, requested to reject the reference with costs.

03. Respondent No. 2 though served, but has not appeared, so proceeded ex-parte against him.

04. Considering the rival assertions and denied following issues arose on which findings are being recorded with reasons in subsequent paragraphs:

ISSUES			**FINDINGS**
01)	Whether the compensation awarded by the SLAO is inadequate ?	….	**In Affirmative.**
02)	Whether the reference is within limitation ?		**In Affirmative.**
03)	Whether the claimants are entitled to enhancement in compensation as claimed ?	….	**In Partly Affirmative.**
04)	What is order and Award ? ……		**As Per Final Order Reference Is Partly Allowed.**

05. On behalf of claimants as CW-1, Dharmaraj Jagannath Sabale has filed his affidavit of examination-in-chief vide Exh. 19. They have placed oral evidence closing pursis below Exh. 23. In so far as documentary evidence is concerned they have produced on record following documents:

01. Copy of Award dated 31.08.2009 at Exh. C/25;
02. Receipts of providing sugarcane to Ranumata Sugarcane and Gaggery Process, Loniphata, but those are carbon copies have not proved by process, so cannot be exhibited;
03. Certified xerox copy of sale deed No. 1280/2003 at Exh. C/22.

06. Respondents have not chosen to lead any evidence, so by passing order below Exh. 1 closed their evidence side.

07. Heard Ld. Advocate shri. S. S. Kharsade for claimants and Ld. AGP shri. K. D. Kolpe for respondent No. 1 & 3.

»: REASONS :«

08. The Act is a benevolent legislation aims to balance the need of Government to acquired the land and right of individual whose land is acquired. As land is compulsorily acquired, so he looses it forever, so required to compensate him adequately for such loss of land and livelihood. Keeping in mind the said object market value of the land acquired needs to be fixed. Equity and justice demand that, while

deciding market value with intent to compensate claimant the nature of the land plays pivotal role. Proximity of the land and market availability on the date of notification is other grounds relevant to assess market value of the acquired land. Keeping in mind all these and appreciating the evidence on record needs to scrutinize whether compensation proposed by respondents is adequate, or required to enhance as claimed by claimants.

AS TO ISSUE NO. 2:

09. The burden of proving limitation ordinarily lies upon the applicant seeking reference under section 18 of the Act, because section 18 itself prescribes the period within which an application seeking reference is required to be made. Section 18(2) of the Act in substance provides that where the applicant was present or represented at the time of making the award, the application must be filed within sex weeks from the date of award; in other cases, within sex weeks from the date of receipt of notice under section 12(2), or within sex months from the date of award, whichever expires first. Thus, compliance within section 18 of the Act is mandatory because the reference court derives jurisdiction only upon a valid reference made by the Collector. The Honourable Supreme Court in the case of **Mohd. Hasnuddin Vs. State of Maharashtra** reported in **(1979)2 SCC 572** has held that the Reference Court is a Court of limited jurisdiction and derives its authority solely from a valid reference made by the Collector under section 18 of the Land Acquisition Act, 1894. It has been further held that the Court

cannot enlarge the period of limitation prescribed under section 18, nor assume jurisdiction where the mandatory statutory conditions concerning the reference have not been complied with. Therefore, unless the reference is shown to have been validly made in accordance with section 18 of the Act, the Reference Court cannot proceed to adjudicate the claim for the enhancement of compensation. However, here the case on hand stands on the entirely different footing. The record transmitted by the SLAO itself contains the forwarding letter making the present reference which is showing that, application had been made within limitation, consequently he has made reference. In this background one liner objection of the respondents as to reference is not within limitation is not acceptable. Consequently, there is no legal impediment in entertaining reference recording finding that, it is within limitation. Hence, this issue is answered in the affirmative.

AS TO ISSUES NO. 1, 3 & 4:

10. These issues are interlinked and connected with each other such a way that, in case discussed separately, then there is binding to repeat facts, so it is better for precision to discuss all collectively.

11. At the outset it is necessary to bear in mind that an award passed by the SLAO is merely an offer made on behalf of the Government. It is not to be treated as a judgment determining the true market-value of the acquired land. Once a valid reference is made under section 18 of the Act, the

Reference Court is required to determine the market-value of the acquired land independently on the basis of the evidence adduced before it. The Court is not sitting in appeal over the award of the SLAO, but is required to make an original determination of the compensation payable to the claimants. This principle is in consistent with the law laid down by Honourable Supreme Court in the case of **Chimanlal Hargovinddas v. Special Land Acquisition Officer** reported in **(1988)3 SCC 751**. The determination of compensation is governed principally by section 23 and 24 of the Act. Section 23 enumerates the matters which are required to be taken into consideration while determining compensation, the foremost being the market-value of the acquired land as on the date of the publication of the notification under section 4(1) of the Act. Besides market-value, the court is also required to consider the damages sustained by reason of severance, injurious affection and acquisition of standing threes, or other appurtenances, wherever proved. Conversely, section 24 of the Act specifies the matters which are not to be taken into consideration while assessing compensation.

12. It is well settled that the initial burden to prove that the compensation awarded by the SLAO is inadequate lies on the claimants. The claimants must prove by cogent and reliable evidence that the market-value assessed in the award doesn't present the true market-value prevailing on the relevant date. Such burden may be discharged by producing comparable sale instances, previous awards relating to the lands acquired under the same notification or neighbouring

lands possessing similar advantages, or by leading other convincing evidence regarding nature, quality and potentiality of the acquired lands. Reference in this regard may be made to the case of Honourable Supreme Court in **Periyar & Pareekanni Rubbers Ltd. v. State of Kerala** reported in **(1991) 4 SCC 195**.

13. In the present case, claimant No. 1 has entered in witness box as CW-1 and reiterated the pleadings and deposed that the acquired land was fertile, black cotton soil, capable of yielding two seasonal crops every year. He has further stated that the land possessed irrigation facilities in the shape of well water situated in the very acquired land having sufficient water therein, so were taking two crops in a seasonal year and earning net income of Rs. 1,00,000/- per year. It was situated near the village having all facilities and amenities and the highway, thereby, possessing higher market-value of Rs. 2,00,000/- per acre, than granted by SLAO. Furthermore, he has also deposed regarding the existence of 10 custard apple trees having age of 10 years, 9 ber trees, 3 stone-bandhs etc., but SLAO has not considered all those with severance and granted inadequate compensation, so they receive the same by reserving their right to seek enhancement and asked SLAO to make reference for enhancement, so this reference. He has also deposed that, SLAO had adopted wrong process to ascertain market-value of acquired land, instead of considering sale instances of nearby lands nearby the period of notification of acquisition. He has relied on sale-deed No. 1280/2003 of

dated 16.06.2003 to claim that, the same is sale instance of nearby period, so it can be relied for enhancement in which landed property situated in the village Tintraj Survey No. 516, area 10R having assessment of Rs. 0.23 which was adjacent to purchaser, sold out for Rs. 25,000/-. During appreciation of this testimony, it is significant to note that the respondents have not chosen to examine either the SLAO, or any concerned official of acquiring body, the Talathi, the Circle Inspector, or any agricultural expert to rebut the evidence of the CW-1. Though non-examination of witnesses by respondents doesn't relieve the claimants from the burden of proof, the unrebutted testimony of a witness assumes importance when it is otherwise consistent with the surrounding circumstances and documentary evidence on the record.

14. However, the oral testimony of CW-1 regarding irrigation on scrutiny doesn't corroborate by documentary evidence. As it is a question of fact, so required evidence in proof. Claimants have not produced revenue record in which, in ordinary course of business, there is inferred to be entered such source. Not only this in joint measurement there found no well in the acquired land, so inference can be drawn in absence of evidence contrary that there was no well in acquired land, so reason to probablise joint measurement. Had there been a permanent source of irrigation such as a well, ordinarily the same would have found a place in the revenue record. The absence of such an entry considerably weakens the oral assertion of CW-1 that the lands were

permanently irrigated. It is also clear that claimants have not produced electricity bills for irrigation pumps, well extracts, crop statements, or any other material which demonstrates that the land was in fact irrigated and capable of yielding two assured crops annually. In the said background submission of shri. Kharsade is not acceptable that there was cultivation of two seasonal crops on the basis of irrigation. Thus, the court is not inclined to accept the oral assertion of CW-1 that, acquired lands were irrigated in its entirety merely because the respondents have not adduced rebuttal evidence. Hence, findings can be recorded that acquired land was unirrigated as mentioned in award of SLAO. Likewise, although CW-1 has asserted that the land possessed high non-agricultural potential owning to its proximity to the village and highway, but no map, village plan, development plan, layout proposal, or other documentary material has been produced to prove the extent of such potential. Mere proximity to the road or village, without supporting evidence, cannot by itself justify acceptance of the market-value claimed by the claimants.

15. In so far as compensation for trees, stone-bandhs and severance etc. is concerned though CW-1 has deposed that, there were 10 custard apple trees, 9 ber trees and 3 stone-bandhs in acquired land, but there is absolutely no evidence which will support the said oral evidence. As all these things are specially in the knowledge of the claimants, so burden to prove those upon them, but except oral statement nothing fruitful has brought on record. Had there

been any trees and stone-bandhs as claimed, ordinarily the same would have found a place in the revenue record, in absence of which this court is not inclined to rely on the unsupported oral testimony of CW-1. Worthy to note here that claimants could have taken assistance of Expert to prove all these facts, but failed. No doubt there is no rule of law that documentary evidence is indispensable. Oral evidence is admissible regarding facts perceived by witnesses, however, the evidentiary value of such oral evidence must be credible, consistent and corroborative, but oral evidence of CW-1 is not such a nature. Acquisition record is completely silent on all these things and claimants have keep mum till the filing of reference which ordinarily prudent man will not do, so reason to disbelieve oral testimony of CW-1. Hence, claimants have not proved that there were any trees and stone-bandhs were there in acquired area.

16. Nevertheless, the inquiry does not end there. The claimants have produced on record one sale instance of sale-deed No. 1280/2003 of dated 16.06.2003 to claim that, the same is sale instance of the similar quality and fertility land having the same amenities as well as availability of facilities and of nearby period, so it can be relied for enhancement in which landed property situated in the village Tintraj Survey No. 516, area 10R having assessment of Rs. 0.23 which was adjacent to purchaser, sold out for Rs. 25,000/-. Shri. Kharsade has submitted by relying on judgment of Honourable Bombay High Court in the case of **Mahadeo Narhari Gunjal & Ors. v. The State of Maharashtra & Anr.**

(First Appeal No. 1925 of 2020 decided on dated 14th July, 2026) that required to apply 10% escalation while ascertaining market-value of acquired land.

17. As laid down principles by Honourable Supreme Court in the case of **Chimanlal Hargovinddas v. Special Land Acquisition Officer, Pune** reported in **(1988) 3 SCC 751** this court is required to examine whether the sale transaction relied on by the claimant is genuine; whether it is proximate in point of time to the notification under section 4; whether the land is situated in the vicinity; whether the land is similar in quality, fertility and potential; whether necessary additions or deductions are required because of differences in size, location or advantages. Not only this recently, in the case of **Manohar & Ors. v. The State of Maharashtra & Anr.** reported in **2025 LiveLaw (SC) 746** Honourable Supreme Court has held that when there are several exemplars with reference to similar lands, then highest of the exemplars, if it is a bonafide transaction, should be considered when determining compensation for compulsorily acquired land. In the light of these laid down laws lets to ascertain market-value of acquired land.

18. Claimants are claiming that acquired land at the time of notification had market-value of Rs. 2,00,000/- per acre, means Rs. 5,00,000/- per hector, but if exemplar relied on by him is perused, then there in 10 R land was sold out for Rs. 25,000/-, so for 100 R market-value will be of Rs. 2,50,000/-. Thus, it is clear that said exemplar is also not

approximately supporting the claim of claimants which weakens the same considerably. In so far as similarity of lands is concerned both are from the same village, except this nothing similarity there. Revenue assessment of acquired land is higher than of land in sale instance. Area of acquired land is 50 R whereas land in sale instance has only 10 R, means 5 times more, so no similarity. There is no evidence which will prove that both lands were of similar fertility, irrigation status, same access, same roads, same potential, same level, same location etc., so it is highly difficult to infer that the said sale instance can be relied for ascertaining market-value of acquired land. Worthy to note here that said 10 R has purchased by purchaser being adjacent to his own land, so might have given the highest price for the said 10 R area. All these things might have impressed the authority while not placing this sale instance before the SLAO. It is not passing test laid down by Honourable Supreme Court in **Chimanlal Hargovinddas**'s case (*supra*), so said sale instance cannot be equated with acquired land for ascertaining its market-value.

19. As held by Honourable Supreme Court in the case of **Manohar & Ors.**'s case (*supra*) when there are several exemplars with reference to similar lands, then the highest of the exemplars, if it is a bonafide transaction, should be considered when determining compensation for compulsorily acquired land. Here in the case on hand as seen from sale exemplars which were available to the SLAO the sale instance at serial No. 2 is the highest one, but it is seeming

that the same might have done in the special circumstances, because its area is only 24 R and its revenue assessment is more than of lands mentioned in the award of the SLAO in Group-A, so might have received such a huge price in special circumstances, so the same cannot considered as the comparable exemplar to decide market-value of the acquired land. There is sale instance at serial No. 1 of the same vicinity of the acquired land in Block No. 692, area 80 R, having revenue assessment of Rs. 1.01 per hector, sold out for Rs. 90,000/-, means Rs. 1,12,500/- per hector. Sale instance is of dated 20.12.2003 means nearby 2 years prior to the notification under section 4(1) of the Act. It is the second highest sale exemplar relied on by the SLAO. He has not given reasoning as to why he is discarding the same. He has not opined that said sale instance was not genuine comparable transaction. Merely because the same is of the highest value cannot be discarded when there is settled position of the law that the highest sale exemplar must be considered. Hence, this court is of the opinion that the SLAO has made mistake while discarding the said sale instance. Worthy to note here that in the said sale instance land is of the same quality, fertility, nearer in proximity, so the same exemplar is reliable to ascertain market-value of the acquired land.

20. As the sale instance is 2 years prior to the notification under section 4 of the Act, so required to ascertain whether escalation should be granted and, if so, at what rate. It is a settled position of the law that where the

best sale instance is anterior to the notification, the court may grant a reasonable increase to account for the rise in land prices, provided there is no evidence of abnormal fluctuation. Here assistance of Honourable Supreme Court's laid down law can be taken. In **General Manager, ONGC Ltd. v. Rameshbhai Jivanbhai Patel** reported in **(2008) 14 SCC 745** it is held that escalation is not a rule of thumb. The court must consider the nature of the locality and evidence of price rise. Where there is no direct evidence, annual escalation between 10% to 15% has often been adopted for rural agricultural lands, depending upon the facts. The same law has been laid down in **Mahadeo Narhari Gunjal**'s case (*supra*) on which shri. Kharsade has placed reliance. In the case on hand sale instance is of 2 years prior. Upon appreciation of the oral and documentary evidence, this court finds that the sale instance at serial No. 1 considered by the SLAO of dated 20.12.2003 is the most comparable transaction. It pertains to agricultural land of the same village and comparable revenue assessment. The transaction is genuine, voluntary and sufficiently proximate to the notification under section 4 of dated 11.11.2005. The market-value reflected there in is Rs. 1,12,500/- per hector. Since the transaction precedes the notification by about to 2 years, reasonable escalation is required to arrive at the market-value as on the date of acquisition. There is no evidence of abnormal fluctuation or extraordinary increase in land prices. Having regard to the settled principles governing determination of market-value, an annual increase of 10% is just and reasonable. Applying the said increase for the intervening period of approximately 2 years, the market-value comes to approximately Rs. 1,35,000/- per hector. This court accordingly determines the market-value of the acquired jirayat land at Rs. 1,35,000/- per hector as on dated 11.11.2005 and for claimants 50R it can be determined at Rs. 57,500/-.

21. Accordingly, it is held that the compensation awarded by the SLAO in respect of the acquired land is inadequate and claimants are entitled to enhancement of compensation in accordance with aforesaid discussion. However, the claim of separate enhancement towards the trees and stone-bandhs deserves to be rejected for want of satisfactory evidence. Accordingly, issue No. 1 is answered in the affirmative, issue No. 3 in partly affirmative and in answer to issue No. 4 proceeded to pass following order:

ORDER

01. Reference is partly allowed with proportionate costs;

02. Respondents are directed to pay compensation to the claimants for acquired land in Block No. 389 as Rs. 1,35,000/- per hector and for claimants' 50R as Rs. 57,500/- after deducting already paid compensation amount;

03. Respondents are also directed to pay component at the rate of 12% per annum on aforesaid fixed market-value of acquired land to the claimant from the date of notification under section 4 of the Act up to the date of passing of award under section

23(1-A) of the Act;

04. Respondents are also directed to pay solatium at the rate of 30% on the enhanced amount of compensation to the claimant as per section 23(2) of the Act;

05. Respondents are also directed to pay interest @ 9% per annum for the first year and thereafter @ 15% per annum from the date of award till depositing entire amount in the court as per section 28 read with section 34 of the Act on enhanced amount of compensation;

06. Claimant to pay deficit court fees if any;

07. Award be drawn up accordingly.

08. Dictated and pronounced in open court.

DISTRICT COURTS MAHARASHTRA

Digitally signed by BHAGWAN DHONDIRAM PANDIT
Date: 2026.08.06 14:38:43 +0530

Dated: 05.08.2026

(BHAGWAN D. PANDIT)
Civil Judge, Senior Division,
Bhoom, Dist. Osmanabad.

CERTIFICATE

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

Name of Stenographer	:	N. V. Koli Stenographer Grade-II
Name of Court	:	Civil Judge Senior Division Bhoom, Tq. Bhoom, Dist. Osmanabad.
Judgment/ Order date	:	05.08.2026
Judgment/ Order signed by the Presiding Officer on	:	05.08.2026
Judgment/ Order uploaded on	:	06.08.2026