

MHOS140005442018



Presented on : 09/08/2010

Registered on : 29/11/2018

Decided on : 15/07/2026

Duration : 15 Years
11 Months
06 Days.

IN THE COURT OF THE CIVIL JUDGE SENIOR DIVISION PARANDA

(Presided over by Shri. A. A. Shaikh)

Land Acquisition Reference No. 364/2018

Exh. No. 51

- 1 Giridhar s/o Sadashiv Kolate
Age-Major, Occu- Agri.
 - 2 Shridhar s/o Sadashiv Kolate
Age-Major, Occu- Agri.
 - 3 Ram s/o Sadashiv Kolate
Age-Major, Occu- Agri.
 - 4 Vishnu s/o Sadashiv Kolate
Age-Major, Occu- Agri.
All claimants r/o Rohakal Taq-Paranda
Dist-Osmanabad(Dharashiv)
(Claimant No.1 is Power of Attorney holder
on behalf of claimant Nos.1 to 3)
- ...Claimants

-Versus-

1. The State of Maharashtra,
Through : The Collector,
Office- Osmanabad.
 2. The Deputy Collector
(The Special Land Acq.Officer Bhoom)
office at Bhoom, Tq. Bhoom
Dist. Osmanabad.
 3. The Executive Engineer,
Sena Kolegaon project, Division, Paranda,
Tal-Paranda Dist-Osmanabad.
- ...Respondents

CLAIM :- Reference under Section 18 of The Land Acquisition Act, 1894 for enhancement of compensation in “acquired land” under File No.2009/LAQ/CR-24 dt. 23.06.2014.

APPEARANCE:-

Advocate Mr. D.B. Suryawanshi for Claimants.

A.G.P Mr. Gade for Respondent Nos.1 & 2.

Advocate Mr. S.D. Gatkul for Respondent No.3

JUDGMENT

(Delivered on 15th of July- 2026)

1] The present reference is filed under Section 18 of the Land Acquisition Act, 1894 (Hereinafter referred as “the Act”) for grant of compensation at enhanced rate towards the acquired lands under Acquisition File No.2009/LAQ/CR-02.

2] The claimants were owner and possessor of their respective lands situated at village Rohkal, Tq. Paranda, Dist. Osmanabad. The details name of the claimants, Gat numbers, area of the acquired lands are given in below table for ready reckoner.

Name of Owner	Gat No.	Area of Acquired land
Claimants Nos.1 to 4	58	00H.71 R
	59	01H.03 R
	60	01H.31 R

(hereinafter referred to as “the acquired lands”).)

3] The claimants have pleaded that, above mentioned agricultural lands have been acquired by the Government through the respondents for the purpose of construction of “Sonari to Sakat Joint Canal” at village Rohkal, Tal-Paranda, Dist-Osmanabad under aforesaid Acquisition File. The respondents have published the notices in official Gazette as per S. 4 & S. 6 on 02.07.2009 and 03.12.2009 respectively. The notices under Sections 4 (1) and 9 (3)(4) of the Act were not properly served upon the claimants. So, the claimants have failed to file objections before the LAO about acquisition of their lands. The respondents took possession of the acquired lands of claimants 23.02.2009. The Award is passed by respondent No.2 behind back of the claimants on 23.06.2010 and awarded inadequate compensation.

On 02.07.2010, the notice under Section 12(2) of the Act is served upon the claimants & thereby they came to know about the contents of Award. The claimants have withdrawn awarded compensation amount under protest and being dissatisfied by the Award, presented their petitions within limitation.

The petitions are based upon following grounds:

4] The acquired lands were having superior quality of black cotton soil. The acquired lands were irrigated by water of well and river. Its fertility was improved by using manure & leveling surface area. The claimants were taking irrigated crops from acquired lands and earning net annual income more than of Rs.50,000/- per Year. According to claimants, fair relevant market value of the acquired lands were Rs.6,00,000/-per Acre. The respondent No.3 has wrongly determined compensation amount on the basis of old land revenue assessment and awarded compensation to the acquired lands of claimants @ Rs. 70,000/- per Acre. The claimants have also contended about the facilities available at village Rohkal and location of market places, road as well as civic facilities like Gram panchayat, electricity, water supply, hospital, transportation etc. are available near the acquired lands. The acquired lands of claimants come within the command zone of sugar factories. The respondent No.3 did not consider above factors and comparable sale instances of the lands in the vicinity. The respondent No.3 has not taken note of it and arbitrarily awarded very less amount of compensation as compared to the market price of acquired lands. Hence, they have contended that, awarded compensation amount is not reasonable and does not reflect the true market value of the acquired lands. Accordingly, the claimants have prayed that their petition with all statutory benefits under:

1	Market price of the acquired lands admeasuring 07Acre 25R out of lands Gat. Nos.58,59, and 60 @ Rs.6,00,000/- per acre	Rs. 45,75,000/-
2	Cost of four Tal @ Rs.50,000/- per tal	Rs. 2,00,000/-
3	Cost of 10 trees	Rs. 1,00,000/-
	Total	Rs. 48,75,000/-

Les amount withdrawn under protest
Total

Rs. 4,69,700/-
Rs. 44,05,300/-

5] The respondents have resisted the claim vide written statement at Exh.9 and 12 respectively. The sum and substance of the written statements of all the respondents is one and same. The respondents have not specifically denied ownership and possession of the claimants over their acquired lands, but evasively denied said fact and asked them to prove it. The respondents have submitted that, respondent No.3 has followed due procedure of law, taken into consideration nature, potentiality, fertility of the acquired lands, land revenue assessment, sale instances of the lands in the vicinity and awarded adequate compensation. The respondent No.3 had divided the acquired lands into specific group by considering relevant factors. The respondents have further submitted that, the notices issued under Sections 4(1), 9(3)(4), 12 (2) of the Act were duly served upon the claimants. However, they have neither replied said notices nor submitted documentary proof in respect of relevant market value of their acquired lands. The adverse contentions made in the petition like the acquired lands were irrigated lands are denied by the respondents. The claims of the claimants are highly exorbitant, imaginary and baseless. The validity of petitions is challenged on the ground of limitation. Hence, they have urged to dismiss all petitions with costs.

6] After going through rival pleadings, following issues have been framed by my learned predecessor. I have recorded my findings on the said issues as follows for the reasons stated below :-

SR.NO	ISSUES	FINDINGS
1	Does claimants prove that the compensation awarded by the Special Land Acquisition Officer is inadequate, and it does not reflect a true market value ?	In the affirmative
2	Does claimants further prove that they are entitled to enhanced compensation for the	

	acquired lands? If yes, at what rate?		Partly affirmative
3	Whether Reference is within limitation ?	-	In the affirmative
4	What Judgment & decree ?	-	As per final Order

REASONS

7] In support of claim, the claimants have examined only one witness i.e. Vishnu Kolte (C.W. 1) at Exh.25. The claimants have closed their oral evidence vide pursis at Exh.47.

DOCUMENTAY EVIDENCE OF CLAIMANTS

- i] Copy of Award & E-statement at Exh-30
- ii] Copies of Notices at Exh-31 to 33 & 46
- iii] Copy of CC Form at Exh-34
- iv] Certified copy of 7/12 extracts of land Gat
No. 58,59,60 at Exh-35 to 37 and 44 & 45
- v] Certified copy of 8/A extract of land Gat
No. 58,59,60 at Exh- 38
- vi] Certificate issued by Talathi at Exh-39 & 43
- vii] Certified copy of 7/12 extracts in the year-2008-09
of land Gat No. 59,60 at Exh-40 & 41
- viii] Certified copy of 8/A extract in the year-2008-9 at Exh-42
- xi] Copy of Judgment in L.A.R. No. 220/2018

8] Respondent No.1 to 3 did not adduce oral evidence in support of their contentions. However, they filed evidence close pursis and contended that the Award and E-statement are on record and the same be treated as their evidence.

9] As per pleading on record and evidence adduced on behalf of the claimants, they were owner and possessor of their acquired lands. As per recitals of Award, the title of claimants being the landholders under acquisition is verified on the basis of the 7/12 extracts. The 7/12 extracts of

the acquired lands also corroborate the said facts. The respondents have also not specifically denied title and possession of the claimants over their acquired lands. Moreover, E-statement reflects that an amount of compensation is determined in the name of claimants towards acquisition of their acquired lands. Hence, there is no reason to discard the claimants' theory that claimants are interested persons vide Section 18 of the Act for making an application/reference in writing for determination of the amount of compensation.

AS TO ISSUE NO.3:-

10] I have discussed issue No.3 at first as it is the mixed question of law and facts. It is contended by the respondents that the references are not filed within limitation. In this regard, the respondents have not brought anything on record to show that the claimants were having knowledge about the declaration of award. In regard of limitation to file reference, I am guided by the judgment in the case of Bhagwan Das and others Vs. State of U.P. and others, reported in 2010 SAR (Civil), 318, wherein the Hon'ble Apex Court laid down that ;

“when a person interested makes an application for reference seeking benefits of six months period from the date of knowledge, the initial onus is on him to prove that he (or his representative) was not present when the award was made, that he did not receive any notice under section 12(2) of the Act, and that he did not have the knowledge of the contents of the award during the period of the six months prior to the filing of application for reference. This onus is discharged by ascertaining these facts on oath. He is not expected to prove the negative. Once, the initial onus is discharged by the claimant/person interested, it is for the Land Acquisition Collector to establish that the person interested was present either in person or through his representative when the award was made, or that he had received a notice under section 12(2) of the Act, or that he had knowledge of the contents of the award. Actual of constructive knowledge of the contents of

the award can be established by the Collector by proving that the person interested had received or withdrawn the compensation amount for the acquired land, or had attested the Mahazar/panchanama/ proceedings delivering possession of the acquired land in pursuance of the acquisition, or had filed a case challenging the award or had acknowledged the making of the award in any document or in statement on oath or evidence”.

11] The claimant has produced on record the certified copy of “CC” form, issued by the respondent's office, at Exh.34. It show that the claimants have withdrawn the compensation amount from the office of S.L.A.O. on 26/07/2010. The present references show that on 09/08/2010 the claimants have submitted present reference before the S.L.A.O. Thus, it clearly appears that the claimants have submitted their reference before the S.L.A.O. within the statutory period of limitation. In such circumstances, it cannot be said that present reference is barred by limitation. Thus, I come to conclusion that present references is filed within the period of limitation. Accordingly, I have answered issue no.3 in the affirmative.

AS TO ISSUE NOS.1 AND 2 :

12] These two issues are intermingled with each other in all petitions, therefore, taken up for consideration commonly for sake of convenience. I have given anxious thoughts towards submissions made by the respective learned Advocates for the rival parties. I have gone through oral as well as documentary evidence placed on record. As stated supra, there is not much dispute regarding ad-measuring area of acquired land, ownership and its acquisition for compulsory purpose. Thus, now it requires to be determined, whether the acquired lands were irrigated? Whether Land Acquisition Officer has awarded adequate compensation? and Whether it reflects true market value?

13] At this juncture, I would like to deal with material aspect for just

and proper conclusion that which will be the relevant date of valuation for determination of compensation of the acquired land? On this point, in the case of Kolkata Metropolitan Development Authority ..Vs.. Gobinda Chandra Makal and Anr., AIR 2011 SC 3834, the Hon'ble Apex Court has held that," *the relevant date for determination of compensation is the date of publication of Notification under Section 4(1) of the Act in the official Gazette*". In the light of this legal position, in both the petitions, it needs to be treated the date of publication of Notification in the official Gazette i.e. 02.07.2009 as mentioned in Award being relevant date of valuation for determination of compensation.

14] In support of claim for enhancement of compensation in respect of acquired lands, claimant Vishnu (C.W.1) has deposed as per pleading made in the petition, as reproduced supra. During cross-examination, he has denied that before acquisition, the concerned Government Officers and Engineers visited to the acquired lands for inspection purpose & drawn panchanama, prepared report under signature of claimants. His remaining cross-examination is nothing but mere denial.

15] Evidence of Vishnu (C.W.1) with regard to determination of inadequate compensation of acquired land by respondent No.3 is not shattered during cross examination as he has not given single admission to that effect. Evidence of above claimant read with recitals of Award reasonably satisfied that the acquired lands were fertile having black cotton soil up to considerable depth. The respondents in their written statement have denied that the acquired lands were irrigated. Thus, the burden is upon the shoulder of claimants to prove that the acquired lands were irrigated.

16] The 7/12 extracts of acquired lands of Gat No.58,59, and 60 show that at the relevant time of acquisition of lands, the claimants were taking crops like soyabean, onion, hybrid, tur, gram, jowar etc. along

with the irrigated crop sugarcane from their acquired lands. But he 7/12 extracts of acquired lands of Gat No.58,59, and 60 produced do not reflect any kind of water source entry in respect of acquired lands of claimants either at its respective other rights column or relevant column No.14. The claimants have pleaded in their petition that their acquired lands were irrigated by water of well prior to its acquisition. But the claimants have not produced any documentary evidence to prove that the acquired lands were irrigated lands. The electricity bill in the name of claimants produced does not show that the said electric connection is in respect of electricity connection of electric meter in acquired Lands. The claimants have not examined any witness of Electricity Board to prove that said electric connection in the name of claimants is in respect of electricity taken by them in acquired lands. So the said electricity bill in the name of claimants is not helpful to them to prove that their acquired lands were irrigated with the help of electricity connection mentioned in electricity bill. In the absence of such evidence, their lands cannot be treated as perennially irrigated. However, taking into consideration the aforesaid crops taken by the claimants in their acquired lands, I treat the lands of claimants as seasonal irrigated.

17] Learned advocate for the claimant argued that the market price fixed in LAR No. L.A.R. No. 1220/2018 may be fixed as market price of the acquired land in this reference. He relied the Judgment delivered in L.A.R. No. 1220/2018 by Civil Judge Senior Division Paranda, dated-06/05/2022 is in respect of the acquired lands from village-Rohka Tal-Paranda for the same project. 28. It is held by the Hon'ble Bombay High Court in the case of Hanmabai w/o. Iranna Patil (deceased through her L.R.'s) vs. The State of Maharashtra & Anr. 2009(2) Mah.L.R. 129 that "*The Reference Court has to rely on Judgment in earlier Reference proceedings which attained finality in respect of lands situated in same village, same purpose and same Notification while determining market value of the land.*" The said ratio is necessary to be considered while determining market value

of acquired lands of claimants by considering the previous Judgments of this court in respect of acquired lands of village Rohkal. The compensation awarded in the said judgment(L.A.R. No. 1220/2018) is Rs. 4,80,000/- per Acre for irrigated land. As per Bayaji Supra the claimant is entitled for the compensation at the same rate. Accordingly, the market price of irrigated land on the date of notification under Section 4 of L.A. Act. would be Rs. 4,80,000/- per Acre. Therefore in order to maintain parity, it will be just and proper to fix the market value at the rate of Rs.3,60,000/- per Acre for seasonable land. Hence the claimant is also entitled to get enhanced compensation at the rate of Rs.3,60,000/- per Acre for his seasonable land. Hence the claimants have proved that the respondent No. 3 has awarded inadequate compensation for their acquired lands in all petitions.

18] The claimants have prayed for grant of enhanced compensation for their acquired trees and Tal. To prove their claim towards acquired trees and tal, they have examined only one witness i.e. Vishnu CW-1. But the claimants have not produced any valuation report of acquired trees and tal. Also the claimants have not examined any expert valuer of trees to prove the market value of acquired trees of claimants. In absence of evidence of expert valuer of trees and documentary evidence about valuation of acquired trees of claimants, mere oral evidence of claimant (C.W.1) is not sufficient to prove the claim of claimants about their acquired trees and tal. Hence claimants have failed to prove their claim for enhancement of compensation for their acquired trees and tal. The e-statement also does not corroborate the fact regarding acquisition of any Tal and trees from "acquired land" of claimants. Therefore, the said contention in claim is not taken into consideration. Accordingly, it is held that, claimants will not be entitled for enhanced compensation for tal and trees.

19] The claimant claimed rental compensation on the market price determined by this court by contending that the possession of acquired land

was taken prior to the date of notification under Section 4 of the L.A. Act by private negotiation. However, as there is no any provision in the L.A. Act in regard to grant of rental compensation in the references filed under Section 18 of the L.A. Act, his claim for rental compensation cannot be considered.

20] In the case of State of Maharashtra ..Vs.. Kailas Shiva Rangari 2016(3) Mh.L.J. 457, the Hon'ble Bombay High Court has pleased to summarize position of Law on the point of the period for which the claimants are entitled to the interest on compensation awarded and held that where the possession of the land under acquisition is taken prior to issuance of Notification under Section 4(1), then there would be no question of invoking the urgency clause under Section 17 of the Act and the interest under Section 34 shall start running from the date of passing of the Award. This legal aspect is also discussed by the Hon'ble Bombay High Court in the recent case The State of Maharashtra through Collector, Beed ..Vs.. Jaywantrao Govindrao Garud by virtue of Judgment dated 05.03.2018 in First Appeal No.499 of 2016 and held that “the interest under Sections 28 & 34 of the Act under such scenario payable to the claimants would be from the date of Award and not from the date of possession, except in the cases where the possession is taken in accordance with Section 17 of the Act.” The provisions of Section 28 of the Act invested with the Court discretionary power for awarding interest on the enhanced value of acquired property, whereas Section 34 provides mandatory embargo on the shoulder of the Collector for awarding such interest. Considering these guidelines, the claimants are entitled to an amount calculated @ 12% per annum on the enhanced value of their acquired lands from the date of Notification Published as per Section 4 i.e. from 02.07.2009 till the date of Award i.e. 23.06.2010 vide Section 23 (1A) of the Land Acquisition Act, 1894. The claimants are entitled to a sum of 30 % on enhanced value of acquired lands of claimants in all petitions being compulsory acquisition of acquired lands vide section 23(2) of the Act. As such, the claimants are further entitled to

interest on the enhanced value of their acquired lands @ 9% per annum from the date of Award i.e. from 23.06.2010 for the first year and interest at the rate of 15% per annum for subsequent year till realization of entire amount vide Sections 28 of the Act.

AS TO ISSUE NO. 4

21] As ultimate result of findings on above issues, the reference is deserves to be partly allowed with proportionate costs. The claimants are entitled to enhanced compensation @ Rs.3,60,000/- per Acre for their acquired seasonable lands with all statutory benefits, as held supra. In view of affirmative findings given on Issue No.1 and 3, partly affirmative finding given on Issue No.2 and as per above discussion, I proceed to record my finding on Issue No.4 as per following final order:

ORDER

1. Reference is partly allowed with proportionate of costs.

2.Claimants are entitle to enhanced amount compensation at the rate of Rs.3,60,000/-per acre. towards their acquired lands

Gat No. 58	Admeasuring	00H.71 R
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Gat No.59	Admeasuring	01H.03 R
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Gat No.60	Admeasuring	01H.31 R
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situated at village Rohaka, Tq.Paranda, Dist. Osmanabad with all statutory benefit, after deducting the compensation amount, already withdrawn by them under protest.

3.The respondents shall pay to the claimants 30% solatium and 12% per annum component on enhanced amount under sec. 23(1)(A) of the Land Acquisition Act, 1894 with effect from the date of notification U/Sec.4 of the Land Acquisition Act i.e. from 23.06.2010 till the date of award.

4.The respondents shall pay to the claimants interest at of 9% per annum for first year and interest at the rate of 15% per annum for the subsequent years on enhanced compensation U/Sec. 28 from the date of Award U/Sec.11 of the Land Acquisition Act i.e. from 23.06.2010 till realization of entire amount.

5.The deficit Court fees, if any, be recovered from the claimants forthwith.

6.Award and bill of cost be prepared under Section 26 and Section 27 of the Act.

7.Rest of the claim stands dismissed.

8. Award be prepared accordingly.

(Dictated and pronounced in open Court)

(A. A. Shaikh)

Date : 15/07/2026.

Civil Judge Senior Division Paranda.

CERTIFICATE

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

Name of Stenographer	-	G. I. Khobre Stenographer (Grade-III)
Court	-	Civil Court Senior Division, Paranda.
Date	-	15.07.2026
Order signed by the presiding officer on	-	15.07.2026
Order uploaded on	-	15.07.2026