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IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION,
MAHAD
(Presiding Officer – Smt. H. R. Jadhav)

L.A.R. No.103/2020
Exh.68/A

1. **Shri. Husain Usman Bavdekar,**
Age – 62 years,
2. **Smt. Havabibi Ibrahim Devalekar (dead)**
through her legal representatives
- 2/1. **Shri. Ibrahim Hasan Devalekar,**
Age – 75 years, **...Applicants**
- 2/2. **Shri. Aasif Ibrahim Devalekar,**
Age – 30 years,
- 2/3. **Smt. Mumtaj Najir Bavdekar,**
Age – 42 years,
Applicant Nos.1 to 2/3.
R/o. Bhomjai, Tal – Mahad, Dist – Raigad.
- 2/4. **Shri. Sharafat Ibrahim Devalekar,**
Age – 25 years,
3. **Smt. Maimuna Abbas Nigudkar,**

Date 02.05.2026

Age – 66 years,
R/o. Poladpur,
Tal – Poladpur, Dist – Raigad.

4. **Smt. Amina Bashir Mahaldar,** **...Applicants**
Age – 60 years,
R/o. Bhomjai, Tal – Mahad, Dist – Raigad.

Vs.

1. **The Special Land Acquisition Officer,**
Raigad – Alibag.
2. **The Collector,**
Alibag, Tal – Alibag, Dist – Raigad **...Respondents**
3. **The Executive Engineer,**
Hetavane Kalva Vibhag,
Kamarli, Tal – Pen, Dist – Raigad

**Reference :-Under Section 28-A (3) of Land Acquisition Act,
1894**

Advocates :-

- Mr. B. T. Navale** :- Advocate for the applicants.
- Mr. Yogesh Tendulkar** :- A.P. P. for the respondent No.1
- Exparte** :- For the respondent No.2
- Smt. Varsha Patil** :- Advocate for the respondent
No.3.
-

:: J U D G M E N T ::**(Delivered on 2nd May, 2026)**

This is reference under section 28-A(3) of the Land Acquisition Act, 1894 (hereinafter referred as L.A. Act) for enhancement of compensation arising out of award Case 102/2000 dated 06.08.2002.

Reference can be summarized as under :-

02. The applicants had owned Survey No.356, area 0-04-0 HR (400 Sq.meter) and Survey No.321, area 0-15-0 HR (1500 Sq.meter) total admeasuring 0-19-0 HR (1900 Sq.meter) situated at village Bhomjai, Taluka – Mahad, District – Raigad. Their lands were acquired for “Nageshwari Dam” by the respondents. (hereinafter referred to as “acquired land”). Notice under section 4 of Land Acquisition Act was published on 15.07.1999 and received by the applicants on 17.09.2000.

03. It is contention of the applicants that when they received notice under section 12(2) of L.A. Act, they learned about the award passed by the respondent No.1, the Special Land Acquisition Officer (hereinafter referred to as “S.L.A.O”). The applicants also learned that they were not awarded adequate compensation and that the S.L.A.O. neglected to consider the true market value of the land.

They were granted meager compensation for the acquired land, including solatium and other components. However, the applicants accepted the same under protest, reserving their right to file a reference under section 18 of the Act for enhancement of compensation.

04. It is further contention of the applicants that, while determining the value of the acquired land, the S.L.A.O. did not consider the availability of electricity, water and other amenities such as Primary Schools, Markets, Hospitals, and similar facilities. The S.L.A.O. wrongly determined the market value of the acquired land. The method and procedure adopted by the S.L.A.O. in determining the value of acquired land are incorrect. The compensation awarded is inadequate and unjust.

05. It is further contention of the applicants that, railway station Karanjadi is located at just 500 to 750 meters from village Bhomjai. Village Bhomjai is situated near the historical city of Mahad. Village Bhomjai has all civic amenities such as high schools, colleges, hospitals, hotels, garages, showrooms, markets, S.T. Depot and all Government Offices within a distance of about 10 km. from the acquired land. There are historical places such as Raigad fort, situated at distance about 15 to 16 km, which is a well-known historical tourist place. Pratapgad fort and

Mahabaleshwar are situated a distance about 50 to 60 km. Shivtharghal, a religious place is situated a distance about 30 km. Gandharpale Buddhists caves and M.I.D.C. Mahad are situated at a distance of about 10 to 12 km from the acquired land/village Bhomjai. On account of these historical places and surrounding development, village Bhomjai and Mahad city are known for tourism. Therefore the acquired land had non-agricultural (N.A) potentiality and higher market value. However, the S.L.A.O. did not consider all these aspects while determining the market value of the acquired land.

06. It is further contention of the applicants that, the compensation awarded by the S.L.A.O. is baseless and arbitrary. He has wrongly determined the market value of the acquired land. The market value of the acquired land at the time of acquisition was Rs.1,000/- per Sq. meter. However, the S.L.A.O. granted only a meager amount, including statutory benefits such as solatium and other components. Thus, the applicants have claimed enhanced compensation at the rate of Rs.1,000/- per square meter for the acquired land, along with 12% additional component, 30% solatium and 15% interest, as stipulated under the Land Acquisition Act. It is further contention of the applicants that they have filed the present reference for enhancement of compensation within six weeks from the

date of receipt of notice under Section 12(2), as required under the L.A. Act. Thus, the applicants prayed to allow the reference.

07. The Respondent No.1 vide written statement **(Exh.14)**, resisted the reference. The respondent Nos.1 and 2 admitted that the land under reference has been acquired for Nageshwari Dam under award Case No.102/2000 dated 31.12.2019. Notifications of under section 4 and 6 of the L.A. Act were published in daily newspapers. Notices under section 9(3) and 9(4) were served upon to the interested persons. Opportunity was given to the applicants during the inquiry. However, the applicants did not produce any evidence to substantiate their claim in response to the notices under section 9(3) and 9(4) of the L.A. Act.

08. It is further contention of the respondent Nos.1 and 2 that, the land under reference is situated within the limits of village Bhomjai, Taluka – Mahad, District – Raigad. The S.L.A.O., after considering the prevailing market value determined the value of the acquired land. The S.L.A.O. after, preparing groups of lands, awarded market value group wise as stated in the award. The S.L.A.O. awarded adequate and reasonable compensation for the acquired land. The compensation awarded is adequate and in consonance with market value prevailing at the time of

notification under section 4 of L.A. Act. The applicant's claim is exorbitant and excessive therefore they are not entitled to any enhancement of compensation. In short, the respondent Nos.1 and 2 prayed for dismissal of the reference with costs, alleging it to be devoid of merits.

09. The respondent No.3 vide written statement (Exh.17) denied the applicants claim and adopted the line of defence taken by the respondent Nos.1 and 2, alleging the claim to be excessive and exorbitant. In addition, the respondent No.3 contended that the land under reference was undeveloped and was not yielding any income. Even the surrounding area of the land under reference was undeveloped. There were no industries, markets or other commercial establishments near the land under reference. Considering government market value prevailing in the year 1999, the S.L.A.O. determined the market value and compensated the applicants accordingly. The value of the land under reference as determined by the S.L.A.O. is just and proper. Thus, the respondent No.3 prayed for dismissal of the reference.

10. Considering the rival pleadings of the parties, my learned predecessor framed the issues at Exh.23 which are reproduced herein below and to which I have recorded my findings against each of them.

Sr. No.	Issues	Findings
1	Whether the applicants prove that the compensation awarded by the opponents is inadequate and insufficient and not in accordance with the prevailing market rate ?	Yes.
2	Whether the applicants are entitled to enhanced compensation ? If yes, at what rate ?	Yes. At Rs.700/- per Sq.meter
3.	Whether the present application is barred by law of limitation ?	No.
4.	What order and award ?	As per final order.

:: REASONS ::

11. In support of claim, the applicant No.1 Husain Usman Bavadekar(A.W.1) filed his affidavit in lieu of examination-in-chief at **Exh.25**. The applicants also examined land valuer Mr. Milind Jadhav (A.W.2) at **Exh.28**. Besides oral evidence, the applicants relied upon documentary evidence such as, valuation report of land (**Exh.31**) & location map(**Exh.32**) of acquired land prepared by land valuer Mr. Milind Jadhav (A.W.2), disputed award (**Exh.56**), certified copies of index No.II (**Exh.57 to 65**) of

sale transactions which took place prior notification under Section 4 of L.A. Act, certified copies of judgments delivered by my learned predecessor in L.A.R. No.58/2006 dated 22.06.2023 and L.A.R.No.02/2006 dated 15.04.2023 (Exh.66 & 67) regarding land acquired under the same award(Exh.56).

12. The respondent Nos.1 and 2 chose not to lead any oral or documentary evidence on their behalf.

13. The respondent No.3 has examined Gunvant Tanaji Shelar below Exh.36. Besides oral evidence, the respondent No.3 has relied upon documentary evidence such as, two maps obtained from the official government website showing the affected villages (Exhibits Nos.39 and 40 respectively), a certified copy of a letter from the Agricultural Produce Market Committee (Exhibit No.41), copies of Index No.2 (Exhibits Nos.42 to 49 respectively), the original zone survey report obtained from the City Survey Office (Exhibit No.50) and the 7/12 extract (Exhibit No.51).

14. The applicants have filed their written notes of argument at Exh.53. The respondent No.3 has filed written notes of argument at Exh.54.

As to issue No.1:-

15. Learned advocate for the applicants in written notes of argument (**Exh.53**) contended that while awarding compensation, S.L.A.O. did not consider road and railway transport, telecommunication, availability of civic amenities, availability of skilled and unskilled laborers, tourism, nearest industrial development, non agricultural potentiality of acquired land, the historical importance of the location, and other important aspects available at Taluka Mahad. It is further contention that while determining valuation of acquired land, the S.L.A.O. did not consider availability of electricity and water and failed to consider sale transactions which took place near the acquired land. The S.L.A.O. wrongly determined the market value of the acquired land. The compensation awarded is baseless, arbitrarily, inadequate, unjust and incorrect. The market value of acquired land at the time of notification under section 4 of L.A. Act was Rs.1,000/- per Sq. meter. Therefore, prayed for allowing the application.

16. In support of these submissions, learned advocate for the applicants relied upon following judgments:-

- i) **Gadigeppa Mahadevappa Chikkumbi Vs. State of Karnataka and others AIR 1990 KARNATAKA 2,**

- ii) **Bharat Sanchar Nigam Limited Vs. M/s. Nemichand Damodardas & Anr. 2022(4) ALL MR 781 (S.C.)**
- iii) **Lal Chand Vs. Union of India & Anr. 2009 ALL SCR 2400**
- iv) **Rajnitai Shankarrao Satav Vs. The State of Maharashtra & Ors. 2023(1) ALL MR 650**
- v) **Deputy Chief Executive Officer Goa Daman and Diu I.D.C. Panaji Vs. Shaikh Mohidin Shaik Dawood (Deceased by Lrs.) 2006(2) ALL MR 462**
- vi) **Shalini Vaman Godbole Vs. Special Land Acquisition Officer Solapur & Ors. 2009(4) ALL MR 522**
- vii) **Major Gen. Kapil Mehra & Ors. Vs. Union of India & Anr. 2014 ALL SCR 3728,**
- viii) **The Akkalkot Municipal Council, Solapur Vs. Shri. Rameshrao Tulsiram Kharade & Ors. 2009(5) ALL MR 856,**
- ix) **Valliyammal & Anr. Vs. Special Tahsildar (Land Acquisition) & Anr. 2011(5) ALL MR 933 (S.C.),**
- x) **Nelson Fernandes & Ors. Vs. Special Land Acquisition Officer, South Goa & Ors. 2007 ALL SCR 1608,**
- xi) **Pandhari Dhondiba Nukulwad Vs. The State of Maharashtra And ... 2020(1) LPJ (BHC) 61**
- xii) **The Land Acquisition Officer PWD (Cell) Altinho & Anr Vs. Shri Shantaram J.S. Katak 2011(7) ALL MR 153**

- xiii) **Mohammad Yusuf & Ors. Vs. State of Haryana & Ors.**
2018 ALL SCR 1476
- xiv) **The State of Maharashtra Vs. Shantaram Govind Tandel & Ors.** 2011(7) ALL MR 273
- xv) **Vishwasrao Vithalrao Prabhu Desai and Ors. Vs. The Addl. Dy.Collector & Land Acquisition Officer** 1997(3) ALL MR 479
- xvi) **Mrs. Ushabai Balasaheb Pawar Vs. The State of Maharashtra & Anr.** 2020 NearLaw (Bombay HC Aurangabad) Online 974
- xvii) **Vidarbha Irrigation Development Corporation Vs. Chunnilal Ghashiram Kubre & Ors.** 2024(1) ALL MR 719
- xviii) **The Executive Engineer Vs. Shri Balaprasad Ganeshlal Sarda & Ors.** 2024(3) ALL MR 549
- xix) **Dhangir Pandurang Gosavi Vs. The State of Maharashtra & Ors.** 2021 (7) ALL MR 332
- xx) **Land Acquisition Officer Vs. Mohandas Pandharinath & Anr.** 2020 (6) ALL MR 19
- xxi) **Vidarbha Irrigation Development Corporation Vs. Shri Laxman Seetaram Neulkar & Anr.** 2020 (6) ALL MR 221

17. Ld. Advocate for the respondent No.3 in her written notes of arguments below Exh.54 has contended that, the applicants had not given any evidence in support

of their claim as per Section 9(3)(4) of the L. A. Act 1894. The respondent No.3 after considering the circumstances at the time of acquisition has given proper compensation as per class mentioned in 7 x 12 extract. The valuation report filed on record must be discarded as it is based on a site inspection conducted without notice to the respondent No.3. This violates the principles of natural justice and renders the report a self-serving documents for the applicants.

18. Ld. Advocate for the respondent No.3 has further argued that, the applicants have not raised objection to the notices which were given under section 9(3)(4) of the act till passing Award under Section 11 and receiving notice under section 12(2) of the Act. The Notification of Section 4 of the Act was published on 16.04.1999 and the respondent No.3 has considered market value of the year 1999 and also considered N.A. potentiality, place, area, nature and class of the land by comparison method. The land is located near the Nageshwari River and falls within a potential flood zone. It is scientifically and legally improbable for such land to be converted for residential or non-agricultural use. The applicants have rely on sale deeds for small, developed plots near the main road to value large, undeveloped agricultural tracts. As per the Hon'ble Supreme Court guidelines, a minimum deduction of 33% to

50% for development charges must be applied, which the applicants have failed to do.

19. Ld. Advocate for the respondent No.3 has further argued that, the applicant has admitted in his cross-examination that he was taken paddy crop in the acquired land once in a year. The paddy crop was depending on the monsoon water. Tap, well were not available in the acquired land. The main occupation of villagers of Bijghar is agricultural and pasteurizing cattle. Bijghar gaonthan is at 1 K.m. distance from acquired land. Karanjadi Railway Station is at half k.m. distance from village. The valuer has admitted in his cross-examination that, he had not informed or given notice to the Revenue Officers about visiting the acquired land. He has deposed that Trial Pit Test being done for verifying the distance of hard base of the land. He has failed to produce notes and photographs of Trial Pit Test. He is not a government approved agricultural land valuer under the Wealth Tax Act. Evidence of these witnesses are not helpful the applicants.

20. Ld. Advocate for the respondent No.3 has further argued that, the historical places like Gandharpali Caves, Raigad Fort, Shivtharghal are at the left side of National Highway. The acquired land is at the right side of National Highway. Distance between Gandhar Caves and Shivtharghal is 30 to 35 k.m. The valuer has not considered

the rate given in the Ready Reckoner. Witness examined by the respondent No.3 Mr.Shelar has produced a Zone certificate for proving the land is in an Agricultural Zone and a Flood Level Map. Under the Maharashtra Regional and Town Planning (MRTP) Act and current environmental norms (reaffirmed in 2024-2025 High Court rulings on Floods Line Constructions), land falling within the “Blue Line” or flood zone is strictly prohibited from any residential or commercial development.

21. Learned advocate for the respondent No.3 has further argued that, it is a settled principle in ***Vithal Rao V SLAO*** and that when comparing small plots to large tracts, a deduction for “Development Charges” (roads, open spaces, amenities) ranging from 33.33% to 60% is mandatory. The Valuation Report though exhibited is not proved. The lands are acquired for construction of Dam. The lands shown in the Judgments are acquired for New Bombay Project, where the developed plots being given on lease. Therefore purpose for acquisition of land is required to be considered. The demand for Rs.1000/-p.s.m. for agricultural land is ‘unreasonable’ and attempt is made to exploit the public exchequer. Therefore the respondent No.3 has prayed for dismissal of the application with costs.

22. Learned advocate for the respondent No.3 has relied upon the following judgments:-

i) *Tarlochan Singh V State of Punjab [(1995) 2 SCC 424]*, *Hookiyar Singh V Special Land Acquisition Officer [(1996) 3 SCC 766]* and *Subh Ram V State of Haryana [(2010) 1 SCC 444]*. In these cases the Hon'ble Supreme Court has held that,

all the lands in the same village may not possess the same quality and command a common market price. The purpose of acquisition can never be a factor to increase the market value of the acquired land.

ii) *Special Land Acquisition Officer Vs. Karigowda and Others [reported (2010) 5 SCC 708]*, the Hon'ble Supreme has held that,

“What is required to be assessed, is the land and its existing potentiality alone as on the date of acquisition. Moreover, the potentiality has to be directly relatable to the capacity of the acquired land to produce agricultural products or, its market value relatable to the known methods of computation of compensation.

23. Ld. Advocate for the respondent Nos.1 and 2 has argued as per the arguments of the respondent No.3.

24. The applicant No.1 – Husain (A.W.1) reiterated the contents of reference Exh.1 in his affidavit of

examination-in-chief stating that the compensation awarded by the S.L.A.O. for his acquired land is inadequate and unjust. He contended that the method and procedure adopted by the S.L.A.O. in determining the value of the acquired land was not correct, as the S.L.A.O. did not consider nearby the sale transactions. The applicants witness Mr. Milind Jadhav (A.W.2) land valuer deposed accordingly in his evidence.

25. From perusal of evidence on record it reveals that, the respondents have supported the reasoning of the award and the method adopted by the S.L.A.O. in determining the price of the acquired land. The respondent No.3 has been recorded the evidence of the Assistant Engineer, Grade-1, Hetawane Project Sub-Division, Mahad, Mr. Gunvant Tanaji Shelar below **Exh.36**. In his chief-examination he has reiterated all the contents of the written statement filed by the respondent No.3. In his further chief-examination he has deposed that, the sub-divisional office of their department is situated at the Hetawane Project Sub-Division, Mahad. At the relevant time, he was working there as an Assistant Engineer, Grade-1. Since he was serving in that capacity, the sub-divisional office had assigned him the work relating to land acquisition cases. The acquisition of the claimant's land has been carried out strictly in accordance with the entire legal procedure and

for public purpose. The compensation has been awarded after taking into consideration the nature of the claimant's land and the prevailing situation at the relevant time. The rate has been determined by comparing factors such as development potential of the acquired land, location, area, classification, and type of land.

26. He has further deposed that, the Land Acquisition Officer has fixed the rate after considering the prevailing market value as per the year 1999. The said land acquisition has not rendered the claimant/landowner landless in any manner. While awarding compensation, the railway station Distance, road, electricity, water, primary school, shops, hospitals, tourist places, and industrial areas all these factors have been considered by the respondents, and the same have been properly mentioned in the award. The compensation has been awarded to the claimant as per the prevailing market rate. However, the claimant has knowingly made an exaggerated and excessive claim for higher compensation.

27. During the cross-examination of Gunwant Shelar, he has admitted that, prior to the year 2023, he had not visited the village where the acquired land is situated. He also admitted that he had not obtained any data from the Economic, Statistical, or Income Tax Departments. Furthermore, he admitted that he had not worked as a

valuer (valuation expert) in any government project. He has further deposed that the Chief Executive Officer of the Hetawane Project, Mrs. Trupti Rajbhoj, being his superior officer, had appointed him as a witness in the present case. Furthermore, he has denied that, Mrs. Trupti Rajbhoj had avoided her own responsibility and instead sent him to act as a witness in this matter.

28. In further cross-examination of Gunwant Shelar he has admitted that, neither he nor his superior officers have prepared any award in respect of the acquired lands. He has further admitted that the proposal for acquisition of land for the Nageshwari Dam under the Hetawane Project was submitted to the District Collector, Raigad. The valuation of land in the award was carried out by applying the Government Ready Reckoner method. He is not aware whether the Ready Reckoner method is contemplated under the Land Acquisition Act and whether the Hon'ble High Court and the Hon'ble Supreme Court have held in various judgments that valuation based on the Ready Reckoner cannot be treated as the sole basis. He has further admitted that his department has not filed a valuation report and map in the same manner as the applicants have filed their valuation report and map. He has further deposed that it appears from the award that, at the relevant time, the Special Land Acquisition Officer did not have any instances

of sale or lease transactions while determining the market value of the land.

29. In further cross-examination of Gunvant Shelar, he has denied the suggestive questions that the valuation method mentioned in Paragraph No.21 of the Award is completely incorrect and the classifications of land mentioned in the Award, such as Kharif and Varkas, are not in accordance with the law. He has admitted to having no information regarding when the notices under Sections 4(1), 9(3), (4), and 12(2) were issued or served at the time of declaring the Award. He denied all the suggestive questions in respect that, he is giving false testimony on behalf of Opponent No. 3 by falsely stating that the lands are in mountainous areas to ensure the applicants do not receive fair compensation and to prevent project-affected farmers from receiving any increased compensation.

30. In further cross-examination of the said witness he has deposed that, while the Gat numbers (survey numbers) are mentioned in the digital map, the subdivisions (Pot-hissa) are not mentioned; similarly, the names of the owners of the said Gat numbers are not mentioned in the list provided for the site. All the lands for which the Award was passed for the Nageshwari Dam Project were acquired specifically for the purpose of water storage for the dam. No documents were attached to

substantiate the rates shown in the letter submitted by the Agricultural Produce Market Committee (APMC). He has further admitted that, the Zone Certificate was issued under the assumption that all the lands are agricultural lands as per the certificate. He has further admitted that, if any land is located in a mountainous or inaccessible area, a contour survey must be conducted, but the Special Land Acquisition Officer and respondent No. 3 have not submitted a contour survey map.

31. In further cross-examination of the said witness he has admitted that, there is no documentary evidence from the Index No.2 to show that those were the highest-rated sale deeds for the respective villages. He has further admitted that details regarding the size, location, characteristics, and available infrastructure of the land are not mentioned in the said Index No.2. From overall evidence of the said witness it reveals that the respondent No.3 are the Requiring Body, the Collector appointed an Acquisition Officer to carry out the land acquisition work. Consequently, all procedures from the Section 4(1) notice of the Land Acquisition Act until the declaration of the Award were handled by the Special Land Acquisition Officer.

32. I have perused the documentary evidence produced by the applicants. It is seen from the alleged award that, in order to determine price of the acquired

land, the S.L.A.O. classified lands into six groups on the basis of land revenue assessment. He divided lands in two types i. e. Kharip and Varkas. In the award the S.L.A.O. also stated that he has considered the market value from the year 1999. While determining the price of the land N.A. Potentiality, place, area, nature and class of lands were determined by the comparison method. He then fixed value of acquired land at Rs.97,500/- & 68,500/- per hector for Kharip and varkas lands respectively, and calculated compensation accordingly with benefits of 30% solatium and 12% additional components.

33. To come to the correct conclusion, it has to be seen whether the method and procedure adopted by the S.L.A.O. for determination of price of acquired land is correct or not. To answer the same, useful reference is required to be made to the judgment in the case of ***State of Maharashtra Vs. Baliram Patil 2006(6) Mh.L.J. 82*** wherein the Hon'ble Supreme Court observed that *“grouping of land made by S.L.A.O. on the basis of assessment is not legal and in accordance with the provision of law”*. Further in the judgment of ***State of West Bengal Vs. Shyampada etc. AIR 1975 S.C. 7223***, the Hon'ble Supreme Court observed that *“while the land classification for revenue purpose might have it's own rationals, it is not uncommon to find that land*

which has a lower classification for revenue purpose fetches a higher price in the market”.

34. Thus, on going through above settled law, it is manifest that the determination of price of acquired land on the basis of land revenue assessment cannot be a determinative factor, simply for the reason that land revenue assessment is fixed by the Government before decades ago and there is no revision taken place. In the backdrop, the classification of land on the basis of land revenue assessment cannot be determinative factor for the determination of the price of the acquired land. It is also observed that a “ready reckoner” is published by the Government which only provides basic rates for transactions on which parties have to carry out their transactions for purpose of payment of stamp duty to the Government. However, it does not reflect the actual market value of the said land and the market value of the land is normally more than the ready reckoner rate.

35. It is well settled that market value of the land has to be assessed considering transaction between willing purchaser and willing seller. Therefore, factors like fertility, quality, irrigation facility, prospects of such facilities in the near future must be considered. The market price of agricultural land can also be considered on the basis of nature of land, i.e., irrigated or non irrigated.

36. The applicant No.1 – Husain (A.W.1) was cross-examined at length by the respondents. However upon going through his cross-examination, it is seen that nothing was elicited from him which could support the defence of the respondents that the compensation awarded by the S.L.A.O. vide the award **(Exh.56)** is adequate. On the other hand, evidence of the applicants establishes that M.I.D.C. Mahad is just at 10 Km away from the acquired land, featuring a large number of industries more particularly chemical industries. Nearby acquired lands, there were roads approaching to the State Highway. Karanjadi railway station is just at a distance of half a kilometer from village Bhomjai. There are a number of tourist spots nearby the acquired lands. There is zero pollution of air and water in the proximity of acquired land.

37. I have perused the alleged award, it is seen that the S.L.A.O. did not consider the above aspects. The S.L.A.O. though stated to have considered sale transactions, he has not referred a single sale transaction in the award while determining the market value of the land acquired. The S.L.A.O. has given vague findings about market value of the year 1999 i.e. the year of notification under Section 4 of L.A. Act., N.A. potentiality, place, area, nature, and class of land by the comparison method. The respondents not adduce any evidence to justify the method and procedure

adopted by the S.L.A.O. in determining the market value of the acquired land to prove it to be correct and is in consonance with the settled positions.

38. The S.L.A.O. in determining the market value of acquired land failed in his duty to consider the historical importance of taluka Mahad and availability of civic amenities nearby the acquired land. It is admitted fact that city of Mahad is known for Raigad fort i.e. “Capital of Chatrapati Shivaji Maharaj, the water Satyagraha of Dr. Babasaheb Ambedkar at Chavadar Tale, and other tourism spots like “Gandharpale Caves, Shivtharghal” etc. which fetch tourists to visit it. Thus, it is seen that Mahad taluka is rich in its tourism. Due to tourism spots, more peoples are interested to invest in the lands, developing resorts, restaurants, guest house, eateries and allied business. However, this aspect also not been considered by the S.L.A.O. while determining the market value of the acquired land.

39. In the alleged award (Exh.56), it is seen that, the S.L.A.O. determined market value of the acquired land grouping the lands on the basis of revenue assessment. As discussed earlier, the Hon’ble Supreme Court in the case of *Baliram Patil* (supra), held that grouping of land made by S.L.A.O. on the basis of assessment is not legal and in accordance with the provision of law. Besides, the S.L.A.O.

did not consider any sale transactions determining the market value of the acquired land. Thus, it is observed that the S.L.A.O. did not consider important aspects in determining the market value of the acquired land in proper perspective. With this, it is concluded that the applicants have been able to establish that the compensation awarded by the respondents is inadequate, insufficient and not as per the prevailing market value. Resultantly, issue No.1 is answered in the affirmative.

As to issue No.2:-

40. The applicants claimed enhanced compensation for the acquired land at Rs.1,000/- per Sq. meter. In the notes of argument, it was contended by learned advocate for the applicants that considering the factors like road transport, rail transport, availability of skilled and unskilled labours, chemical industries in M.I.D.C., N.A. potentiality of the acquired lands and fast development of Mahad taluka, the applicants are entitled for enhance compensation at Rs.1,000/- per Sq. meter.

41. To substantiate the claim of enhanced compensation at Rs.1,000/- Sq. meter, the applicants relied upon sale instances **(Exh.57 to 65)** shown below in tabular form;

SR No.	Date of Sale deed	Property location and area	Agreement between	Agreement Value	Rate per Sq. meter
1	Doc. No.518 dated 15-05-1999	Cts no.1597, 1598, 1599, Mahad Area = 215.4 Sq.meter	Sundarabai Ganpat Salunkhe And Smitha Eknath Gole	4,65,000/-	2119/-
2	Doc. No.776 dated 23-07-1998	Mahad Cts no.1222, Area = 46.8 Sq.meter	Pardeep Ramesh Bagade And Vaishali Nandkumar Yadav	1,75,000/-	1603/-
3	Doc. No.961 dated 04-07-2001	Mahad S. No.2749, 2750 Area = 294.03 Sq.meter	M/s. Ramvardayini Construction and Pradip Kashinath Rajmane	3,30,000/- & 3,40,000/-	1121/-
4	Doc. No.636 dated 15-06-1998	Mahad Cts no.1001, Area = 214 Sq.meter	Ramlal Tuljaram Sheth And Khadija Gulam Mohiddin	2,39,338/-	1118/-
5	Doc. No.668 dated 20-06-1998	Mahad Cts no.1001, Area = 214 Sq.meter	Ramlal Tuljaram Sheth And Akbar Mahamad Isane	2,54,631/-	1190/-
6	Doc. No.744 dated 15-07-1998	Mahad Cts no.156 A/1, Area = 1354 Sq.meter	Maruti Devji Thombare And Rafik Ibrahim Isane	11,01,000/-	1354/-
7	Doc. No.436 dated 23-03-2000	Mahad Cts no.145, hno - 11/2 Area = 1900 Sq.meter	Nilam Bastimal Jain And Chetankumar Gajanan Ratnaparakhi	20,96,000/-	1103/-
8	Doc.No.637 dated 15-06-1998	Mahad Cts no.1001, Area = 214 Sq.meter	Ramlal Tuljaram Sheth And Anamtulla Alimiya	2,34,754/-	1094/-
9	Doc. No.1188 dated 03-09-2001	Mahad Cts no.8, Area = 0-08-0 HR	Jayant Chandrakant Deshmukh And Pidilite Industrial Ltd.	1000000/-	1250/-

42. The applicant No.1 – Husain(A.W.1) deposed that, value of the acquired lands at the time of notification under Section 4 of L.A. Act was around Rs.1,000/- per Sq. meter. But the S.L.A.O. without considering market value awarded compensations ignoring nearby sale transactions of acquired land.

43. In support, the applicants also examined Valuer Mr.Milind Jadhav(A.W.2). He has deposed that immediately after publication of notice under section 4 of L.A. Act, he inspected land under reference. Prepared valuation report **(Exh.31)**, along with a location map of the land **(Exh.32)**, shows the available and proposed infrastructural facilities for the land under reference. Having conducted a pit test, he found a hard stratum in the soil. Valuer Mr.Milind Jadhav (A.W.2) also stated that water, electricity, and roads were available to the acquired land. The existing geographical situation of the land under reference was beneficial for non-agricultural purposes. However, in determining the compensation for the land under reference, the S.L.A.O. did not consider these aspects; furthermore, they did not make any comment in the award regarding the potential of the acquired land for non-agricultural, commercial, or industrial purposes.

44. On the other hand, the respondents supported the award, contending that there is no evidence from the applicants to substantiate the claim that the market value of the acquired land was Rs. 1,000/- per sq. meter at the time of acquisition. According to the respondents, the sale transactions relied upon by the applicants cannot be compared to the acquired land. The compensation awarded by the S.L.A.O. is adequate, reasonable, and in consonance with the market value prevailing at the time of the notification under Section 4 of the L.A. Act. According to the respondents, the applicants' claim for enhancement is excessive and exorbitant.

45. It is necessary to look into the legal position before evaluating evidence on the point of enhanced compensation.

46. Section 23 of the Land Acquisition Act stipulates the factors to be considered in determining compensation. It provides that the market value has to be fixed as of the date of publication of notice under Section 4(1) of the L.A. Act. While deciding the market value of acquired land, the Land Acquisition Officer is required to keep in mind the following factors:

- i) The existing geographical situation of the land;
- ii) The existing use of the land;

- iii) Already available advantages, such as proximity to a National or State highway, a road, and/or a developed area; and
- iv) The market value of land situated in the same locality, or adjacent or very near to the acquired land.

47. As observed by the Hon'ble Supreme Court in the case of *Chimanlal Hargovinddas Vs. Special Land Acquisition Officer, Poona & Anr. AIR 1988 S.C. 1952*, "the standard method of determination of the market value of any land acquired is by evaluating the market price of the land on the date of publication of notice under Section 4(1) of the L.A. Act; the dates of notification under Sections 6 & 9 are irrelevant. In doing so, the Court has to correlate the market value reflected in the most comparable instance, which provides an index of market value. Only genuine instances have to be taken into consideration. Even post-notification instances can be taken into account if they are very proximate and genuine, and if the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects. A balance sheet of plus and minus factors may be drawn for this purpose, and relevant factors evaluated in terms of price variation as a prudent purchaser would do. The Reference Court would act as a hypothetical purchaser willing to purchase the land in an open market at the

prevailing price on that day from a seller willing to sell at a reasonable price. Thus, the market value is determined with reference to the open market sale of comparable land in the neighborhood, by a willing seller to a willing buyer."

48. On the backdrop of the above legal positions, evidence of the applicants needs to be evaluated to determine whether the applicants are entitled to compensation. If yes, at what rate ?

49. Going back to the oral evidence of the applicants, The applicant No.1 – Husain(A.W.1), in his affidavit of examination-in-chief, reproduced the contents of the application/reference Exh.1, and as I have discussed above the evidence of the said witness is remained intact. In his cross-examination the respondents themselves brought on record that the acquired land was within the limits of the Bhomjai Grampanchayat, and the distance between Bhomjai village and Mahad is only 8 to 10 km. The remainder of the cross-examination consisting of suggestions that the surrounding area of the acquired land is undeveloped and that the land was reasonably compensated according to the market value at the time of acquisition was denied by applicant No.1 Husain (A.W.1).

50. Valuer Mr.Milind Jadhav (A.W.2) has deposed that, immediately after the publication of the notice under

Section 4 of the L.A. Act, he inspected the land under reference. He prepared a valuation report (Exh.31) along with a location map of the land (Exh.32), showing the available and proposed infrastructural facilities for the land under reference. Having performed a pit test, he found a type of hard stratum in the soil. Valuer Mr. Milind Jadhav (A.W.2) also stated that there was availability of water, electricity, and roads to the acquired land. The existing geographical situation of the land under reference was beneficial for non-agricultural purposes. However, the respondents, in determining compensation for the land under reference, did not consider all these aspects, nor did they make any comment in the award regarding the potentiality of the acquired land for non-agricultural, commercial, and/or industrial purposes.

51. It is to be noted that, while reviewing the evidence of the valuer, Mr. Milind Jadhav, and after perusal of valuation report (Exh.31), it is observed that in suggesting the market value of the acquired land at the time of notification under Section 4 of the L.A. Act to be Rs. 1,000/- per sq. meter, he (A.W.2) considered some judgments in Land References decided by my predecessor in respect of acquired land. These decisions, under the award in dispute, showed an enhancement of compensation to Rs. 700/- per sq. Meter.

52. Valuer Mr. Milind Jadhav (A.W.2) has also relied on sale transactions (Exh.57 to 65) of Mahad city, as referred to above in tabular form. But to suggest the market value of the acquired land at Rs. 1,000/- per sq. meter, he did not make any deduction for development costs from the price of the sale deeds of Mahad city to determine the market value of the acquired land. Hence, the valuation report (Exh.31) and the market value of the acquired land suggesting Rs.1,000/- per sq. meter cannot be acted upon.

53. No doubt, to prove the sale transactions (Index No. II) (Exh.57 to 65), the applicants did not examine the parties to the said transactions, i.e., either the vendor or the vendee. Showing that certified copies of index/sale deeds are admissible in evidence, learned advocate for the applicants referred to Section 51(A) of the L.A. Act, which reads as follows:

Section 51(A) – Acceptance of certified copy as evidence: In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908, including a copy given under Section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.

54. Besides, in the judgment of Osman Khan (cited supra), it has been held that "a certified copy of a registered

document can be considered as evidence in reference under the Land Acquisition Act. Thus, considering Section 51(A) of the L.A. Act and the judgment of Osman Khan, I do find substance in the submission of the learned advocate for the applicants that certified copies of sale transactions are admissible in evidence. Thus, it is observed that the index of sale deeds filed on record by the applicants is admissible in evidence.

55. In the case in hand, the notification is dated 31.12.2019, and the highest rate of sale deed is dated 15.07.1999 i.e., prior to the notification. The said sale transactions appear bona fide and genuine. As seen from the sale transactions relied upon by the applicants, the rates of land in Mahad city are rising from Rs.1,097/- to Rs. 2,119/- per sq. meter. One of the sale transactions, i.e. the sale deed dated 03.09.2001(Exh.65) relied upon by the applicants, shows that land under the said sale deed in village Kambale-Birwadi nearby the acquired lands was purchased by Pidilite Industries at Rs.1,250/- per sq. meter. Pidilite Industries is admittedly situated in M.I.D.C. Mahad within 10 km of the acquired lands. Therefore, it can be considered that the rate of the acquired land is below Rs. 1,250/- per sq. meter, i.e., the rate at which Pidilite Industries purchased the land in village Kambale-Birwadi.

56. As far as the other sale deeds (Exh.57 to 65) are concerned, these are sale deeds for Mahad city. In the city, there is availability of roads, drainage systems, electricity, and layout systems; Mahad city is situated on the Mumbai-Goa highway. On the other hand, the acquired lands are agricultural lands. The acquired lands are adjacent to the Mahad-Vinhere-Khed state highway and near to the M.I.D.C. Mahad and Mahad city. Thus, the acquired lands have N.A. (Non-Agricultural) potential. However, it cannot be ignored that at the time of acquisition, the acquired lands were agricultural lands and, at that time, had only water, electricity, and road facilities. At the time of acquisition, the acquired lands did not have internal roads, drainage systems, or layouts. The distance between the state highway and the acquired lands is 10 km.

57. Considering the "guesswork" principles, a lot of development is required for the acquired lands to convert them into lands like those in Mahad city. As the acquired lands are agricultural, a huge amount is required to convert them into non-agricultural land. A substantial portion of the land must be reserved for the formation of roads and other civic amenities. Therefore, it will be just and proper to deduct 65% toward the cost of development from the sale price shown in the sale transaction dated 15.05.1999 (Exh. 57). After deducting 65% toward the cost of development,

the price of the lands comes to Rs.741.35 per sq. meter. Applying the guesswork principle and deducting development costs, the market value of the acquired lands comes to Rs.700/-.

58. The applicant referred certified copies of judgment dated 22.06.2023 in L.A.R.No.58/2006(Exh.66) and the judgment dated 15.04.2023 in L.A.R. No.02/2006 (Exh.67), decided by my learned predecessor in respect of lands situated in the same village and acquired for the same project under the same notification. My learned predecessor, considering the same evidence as produced in the case at hand, partly allowed the reference and awarded enhanced compensation at Rs.700/- per sq. meter.

59. It is useful to refer here to the judgment of *Hanmabai Iranna Patil Vs. State of Maharashtra and another 2009(4) Mh.L.J. 805*, wherein the Hon'ble Bombay High Court held that "the claimants whose lands are situated in the same village and acquired for the same project under the same notifications are entitled to compensation at the same rate on the ground of parity."

60. In the case at hand, as admittedly stated above, my learned predecessor, considering the same evidence, awarded enhanced compensation at Rs. 700/- per sq. meter for lands situated in the same village (i.e.Bhomjai) and

acquired for the same project under the same notification. Thus, considering the judgment of Hanmabai Iranna Patil referred to above, I find no special reason to take a different view from that of my learned predecessor. Having considered all discussed aspects, it is observed that the applicants are entitled to enhanced compensation for the acquired land at the rate of Rs.700/- per sq. meter on the ground of parity.

61. As regards the rest of the judgments cited on behalf of the applicants, those are either on the points already referred to in this judgment or on points which are not a prime consideration in this judgment. Therefore, I find it unnecessary to deal with each judgment separately.

62. Evidence of Gunvant Shelar below Exh.36 is not helpful to the respondent No.3 for proving their case. Having considered the above-discussed aspects, it is observed that the applicants have been able to establish that, on the date of notification under Section 4 of the L.A. Act, the market value of the acquired land was Rs.700/- per sq. meter. Accordingly, the applicants are entitled to enhanced compensation. However, any compensation already paid to the applicants is required to be deducted. In addition to the enhanced land value, the applicants are entitled to statutory benefits, i.e. 30% solatium and 12% additional component, along with interest as per the

provisions of the L.A. Act. Resultantly, issue No.2 is answered in the affirmative.

As to Issue No.3 :-

63. It is the case of the respondents that, the present application is barred by law of limitation. Perused para No.11 of the reference application in which the applicants stated that, the award under 28-A of the Land Acquisition Act in respect of aquired property, which came to their knowledge upon receipt of the notice under Section 12 (2) of the said Act. Thereafter they submitted an application to the respondent for obtaining certified copy of the said award. From the date of receipt of the said copy, the present reference application has been filed within a period of 42 days. Evidence of the applicants in this respect remained intact. Accordingly, the present reference application is filed within the prescribed period of limitation. Resultantly, issue No.3 is answered in the negative.

As to Issue No.4:-

64. In answering Issue Nos.1 to 3, it has been observed that the claimants/applicants proved that the compensation awarded by the respondents is inadequate and not in accordance with the prevailing market value. Recording the reasoning for Issue No.2, it has been

observed that the claimants/applicants are entitled to enhanced compensation at the rate of Rs.700/- per sq. meter, after deducting compensation already received and benefits of solatium and components with applicable interest under the L.A. Act. Accordingly, in view of the findings on Issue No.4, the following order is passed:

:: ORDER ::

1.	The Reference is partly allowed with costs.
2.	The applicants are entitled to enhanced compensation for the acquired land from Survey No.356, area 0-04-0 HR (400 Sq.meter) and Survey No.321, area 0-15-0 HR (1500 Sq.meter) total admeasuring 0-19-0 HR (1900 Sq.meter) situated at village Bhomjai, Tal – Mahad, Dist – Raigad at the rate of Rs. 700/- per sq. meter.
3.	The applicants are entitled to 30% solatium on the enhanced compensation under Section 23(2) of the L.A.Act.
4.	The applicants are entitled to a 12% additional increase on the enhanced amount of compensation from the date of the notification

	under Section 4(1) of the Land Acquisition Act to the date of the award, i.e. dated 06.08.2002, under Section 23(1A) of the L.A. Act.
5.	The applicants are also entitled to interest at 9% per annum for the first year of the award and thereafter at 15% per annum until the realization of the entire amount.
6.	Formulate the award accordingly.

Mahad
Date : 02.05.2026

(Smt. H. R. Jadhav)
Civil Judge Senior Division
Mahad.