

CNR No. MHSN050027572019



Received on : 14/12/2017
Registered on : 19/12/2017
Decided on : 07/03/2026
Duration : Y M D
08 02 22

IN THE COURT OF JT. CIVIL JUDGE, SENIOR DIVISION, ISLAMPUR

(Presided over by Bhagwan M. Karlekar)

L. A. R. No. 32/2019
(Exh.74)

- 1) Shri. Bhanudas Keshav Barpte, Age 59,)
- 2) Shri. Chandrakant Keshav Barpte, Age 57,)
- 3) Shri. Rajvardhan Ravindra Thorat, Age 30)...**Claimants**
Occu. Agriculturist,)
R/o. Kameri, Tal. Walwa, Dist. Sangli.)

- VERSUS -

- 1) The Collector,)
Sangli District, Sangli)
- 2) Special Land Acquisition Officer No. 5,)
Miraj (Merge in No.1))
- 3) Executive Engineer,)
Maharashtra State Road Development)
Corporation Ltd. Mumbai,) ...**Opponents**
Division Officer, Kolhapur)
- 4) Executive Engineer,)
National Highway Authority of India,)
Project implentation unit Pune. BAIF)
Bhavan Campus S. No.134/1,)
Dr. Manibhai Desai Nagar, Warje Pune.)

Reference u/s.28-A(3) of The Land Acquisition Act, 1894.

Ld. Counsel for the claimants :- Shri. S. A. Patil

Ld. Counsel for respondent No.1 to 3:- Shri. R. S. Patil, A.G.P

Ld. Counsel for respondent No.4 :- M/s. M. V. Kini & Co.Pune

JUDGMENT
(Delivered on 07/03/2026)

1. This reference has been filed under Section 28-A(3) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for determination of the compensation amount for the acquired land, pursuant to the notification issued under Section 4 of the Act dated 14/02/2002.

In a nutshell the claimant's case is as follows:

2. That the claimants are the owner of Gat No.3905, admeasuring 56 Ares, situated at village Kameri, Taluka Walwa, District Sangli. Out of the said Gat number, 14 Ares of land have been acquired for the purpose of extension of National Highway No. 4 as per Notification issued under Section 4 of the Act, dated 14/02/2002. The Special Land Acquisition Officer passed Award No. 5/SR/31/2001 in the absence of the claimants.

3. Being aggrieved by the award passed by the Special Land Acquisition Officer no. 5, the claimants have filed references under Section 18 of the Act for enhancement of compensation before the Civil Judge, Senior Division, Islampur, bearing L.A.R. Nos. 03/2005, 04/2005, 07/2005 and 43/2005. These reference applications were decided on 01/01/2014, and were partly allowed. The Court enhanced the compensation to the tune of Rs. 17,000/- per Are. The Court further granted interest at the rate of 12% per annum on the additional market value under Section 23(1) of the Act, 30%

additional amount on the market value by way of solatium under Section 23(2) of the Act, and interest at the rate of 9% per annum for the first year and 15% per annum till realization of the enhanced amount under Section 28 of the Act. However, the present claimant did not file a reference under Section 18 of the Act before the Civil Court.

4. Thus, on the basis of the judgments passed in L.A.R. Nos. 3/2005, 4/2005, 7/2005, 29/2005, 30/2005, and 43/2005, the claimants filed an application under Section 28-A of the Act before the Collector. In support of the said application, the claimant submitted copies of the judgment, the 7/12 extract of the acquired land, and an affidavit regarding limitation before the Collector. However, the Collector wrongly and illegally rejected the application without considering the documents produced on record. Hence, the grounds for rejection of the application under Section 28-A of the Act are incorrect, and the impugned award has been passed in violation of the principles of natural justice.

5. The matter was closed by the Collector without prior intimation, and only after passing the decision dated 07/03/2017, the intimation thereof was sent, which was received by the claimant on 03/05/2017.

6. Immediately, on 06/05/2017, the claimant applied for certified copies of the award passed by the Collector under Section 28-A of the Act. The certified copies were received on 17/05/2017. Thereafter, the present reference under Section 28-A(3) of the Act was filed on 01/06/2017. Thus, the reference has been filed within the period of limitation.

7. The claimant are entitled to enhancement of compensation under Section 28-A(3) of the Act on the basis of the awards passed in L.A.R. Nos. 03/2005, 04/2005, 07/2005, 29/2005, 30/2005 and 43/2005 under Section 18 of the Act. The claimants, therefore, prays that enhanced compensation of Rs. 1,78,332/- be awarded in his favour. It is further prayed that, in view of Sections 23(1) and 23(2) of the Act, interest at the rate of 12% per annum on the additional market value from the date of publication of the Notification under Section 4 of the Act till the date of the Award under Section 11 of the Land Acquisition Act, along with 30% solatium on the market value, be granted. It is also prayed that interest at the rate of 9% per annum for the first year from the date of notification and 15% per annum thereafter till realization of the enhanced compensation amount be granted in terms of Section 28 of the Act.

8. Respondent Nos. 1 to 3 after service of notice appeared and filed their reply at Exh. 21. They denied the contention of the claimants. They submitted that this reference is not maintainable before this Court. The application u/s 28-A of the Act is not filed within limitation before the Collector. The collector has passed just and proper order. Hence reference be rejected.

9. Respondent No. 4 appeared and filed its reply at Exh.17, resisting the relief sought by the claimants and denying all the allegations made against the order passed by the Collector. It is further submitted that the judgments passed in L.A.C. Nos. 3/2005, 4/2005, 7/2005, 29/2005, 30/2005, and 43/2005 are not applicable to the case of the present claimants. The reference has not been filed

within limitation. The Collector, after considering the application, has passed a just and proper order. It is further submitted that the Special Land Acquisition Officer, after considering the market value, facilities and amenities available near the acquired land, the non-agricultural potentiality of the land, and the sale deeds of adjacent lands, has granted compensation to the claimants for the acquired land. The compensation awarded by the Special Land Acquisition Officer is just, proper, and reasonable. Therefore, the claimants are not entitled to enhanced compensation, and this reference is liable to be rejected.

10. On the basis of the rival pleadings of the parties, my learned predecessor framed issues at Exh. 22. Non-applicant Nos. 1 to 4 raised an objection pertaining to limitation. Hence, I framed additional issue No.1-A regarding limitation.

11. In order to establish the claim, the claimants examined Chandrakant Keshav Barpte (Claimants witness No.1) at Exh.34. The claimants have placed reliance upon documentary evidence. The claimant has filed pursis Exh. 66 and closed his oral evidence. After framing of issue pertaining to limitation the claimants have filed pursis Exh. 70 wherein they have stated that they do not want to lead evidence on additional issue.

12. Respondent Nos.1 to 3 filed pursis Exh. 67 wherein they have stated that they do not want to lead evidence in support of their defence. After framing of issue pertaining to limitation non-applicants no. 1 to 3 have filed pursis Exh. 71 wherein they have stated that they do not want to lead evidence on additional issue. Respondent No. 4 filed pursis Exh. 68 wherein it has stated that since

already evidence is completed it does not want to lead evidence. However, no such evidence has been led by it. Respondent No.4 filed pursis Exh. 72 wherein it has stated that it does not want to lead evidence regarding issue of limitation.

13. The learned Advocate for the claimants submitted that 14 Ares of land were acquired as per the Notification issued under Section 4 of the Act dated 14/02/2002. The Special Land Acquisition Officer (S.L.A.O.) granted compensation as per Award No. 5/S.R./31/2001 under Section 11 of the Act on 04/02/2003. Being aggrieved by the said award, some of the persons whose lands were acquired under the notification issued under Section 4 of the Act filed references, bearing L.A.C. Nos. 3/2005, 4/2005, 7/2005 and 43/2005, under Section 18 of the Act before the Court of Senior Division, Islampur, for enhancement of compensation. The Court allowed these references and enhanced the compensation to the tune of Rs. 17,000/- per Are for the acquired land. Since the present claimants did not file a reference under Section 18 of the Act, they filed an application under Section 28-A of the Act before the Collector. He has further submitted that the present reference was filed within the period of limitation and is, therefore, maintainable before this Court. The claimants are entitled to enhanced compensation as per the rate of compensation for the acquired land in L.A.C. No. 3/2005 & 7/2005 decided on 01/01/2014. Hence, he has prayed for allowing the present reference. In support of his submissions, he relied upon the decision of the Hon'ble Apex Court in the case of **Union of India v. Pushpavathi, AIR 2018 SC 1032** and **Union of India v. Pradip Kumari (1995) 2 SCC 736**.

14. The learned AGP submitted that the claimants neither filed an application before the Collector under Section 28-A of the Act nor filed a reference under Section 28-A (3) of the Act within the period of limitation. The order passed by the Collector is just and proper. Hence, he prayed for rejection of the reference.

15. The learned Advocate for respondent No. 4 submitted that this reference has to be decided as per the procedure provided under Section 18 of the Act. The claimant has not produced any documentary evidence to indicate the market value of the land. Nothing has been brought on record to show the nature of the agricultural field, sources of irrigation, or other relevant factors. Therefore, no evidence is available to consider the question of enhancement. The reference has also not been filed within the period of limitation. With these submissions, he prayed for rejection of the reference.

16. Having heard both sides and having gone through the evidence on record, I have recorded my findings to the issues framed at Exh. 21 along with the reasons, as follows.

SR. NO.	<u>ISSUES</u>	<u>FINDINGS</u>
1]	Whether the claimant is entitled for enhancement of compensation? if yes, at what rate?	Yes, @ Rs. 17,000/- per Are
1-A]	Whether the reference is barred by law of limitation?	In the negative.
2]	What order?	As per final order.

REASONS

17. **As to issue No.1 & 1-A:-** At the outset of the arguments advanced by the learned Advocates for both sides, the maintainability of the application was challenged, along with the claimant's entitlement to enhancement, as the claimants failed to produce the necessary documentary evidence to justify enhancement of the compensation awarded by the S.L.A.O. Therefore, as a first step, the issue of limitation is taken into consideration. The learned Advocate for the claimants contended that the application is within the period of limitation, whereas the learned Advocates for the respondents contended that the reference was not filed within the period of limitation. Considering the nature of the application, the issue of limitation is twofold: the limitation for filing an application under Section 28-A and that under Section 28-A (3) must be considered separately and independently.

18. At the first instance, the limitation for filing a reference under Section 28-A is taken into consideration. In view of Section 28-A of the Act, for redetermination of the amount of compensation on the basis of the Court's award, Sub-section (1) of the provision prescribes a limitation of three months to file the application from the date on which the award is passed, excluding the time required for obtaining a certified copy of the award.

19. In the case in hand, according to the claimants, the Civil Judge, Senior Division, Islampur, decided L.A.C. Nos. 03/2005, 04/2005, 07/2005, 29/2005, 30/2005, and 43/2005 on 01/01/2014. Exhibits 40, 41 and 73 show that L.A.C. Nos. 30/2005 and 29/2005 decided on 02/01/2014 whereas, L.A.C No. 03/2005

decided on 01/01/2014 and the claimants have filed applications for obtaining certified copies of the judgments therein on 06/01/2014, and they received the same on 07/03/2014. Exh. 38 shows that SR No. 2/14 was filed on 30/05/2014. It is not in dispute that SR No. 2/14 was decided by the S.L.O. on 07/03/2017. Exh.43 shows that on 03/05/2017, the claimants received intimation of the decision dated 07/03/2017. On 06/05/2017, they applied for certified copies of the award passed by the S.L.O. under Section 28-A of the Act, which were received on 17/05/2017. On perusal of Exh. 40, 41 and 73 it appears that those matters were filed on the basis of Award No. 5/SR/31/2001. On perusal of Exh. 38 it is clear that the application under Section 28-A of the Act was filed on the basis of the judgments and awards passed by the Court in L.A.C. Nos. 30/2005, 29/2005 (i.e. Exh. 40 and 41 respectively,) and 03/2005 (i.e. Exh.73) under Section 18 of the Act.

20. While computing the period of limitation under Section 28-A(1) of the Act, the period required for obtaining certified copies must be excluded. The record shows that the judgments and awards were passed on 01/01/2014 and 02/01/2014, and the reference before the Collector under Section 28-A was filed on 30/05/2014. Thus, from the date of the awards to the date of filing the reference, a total of 150 days elapsed. In view of Section 28-A of the Act, the period for obtaining certified copies of the judgments and awards, i.e., from 06/01/2014 to 07/03/2014 (61 days), is to be excluded while computing limitation. Deducting these 61 days from 150 days, the effective period comes to 89 days. The limitation prescribed for filing an application under Section 28-A(1) of the Act is three months. Therefore, the claimant filed the application on the 89th day

of the limitation period. Considering the circumstances and the aforementioned discussion, I am of the view that the present reference is within the period of limitation.

21. Coming to the second limb of consideration, namely the limitation for deciding the present reference under Section 28-A (3), in view of Section 28-A (3) of the Act, the procedure provided for deciding references under Section 18 of the Act is to be applied while deciding a reference under Section 28-A (3) of the Act. Therefore, the limitation period prescribed under Section 18 of the Act is also applicable for filing a reference under Section 28-A (3) of the Act.

22. It is pertinent to mention that the learned Counsel for respondent No. 4 argued that the period of limitation should be counted from the date of the award passed under Section 11 of the Act. Per contra, the learned Advocate for the claimants submitted that the limitation should be counted from the date of the award under Section 28-A (2) of the Act. It is relevant to note that the claimants have challenged the award of the Collector passed under Section 28-A (2) of the Act, and not the award passed under Section 11 of the Act. Therefore, the argument advanced by the learned Counsel for respondent No. 4, that the limitation is to be reckoned from the date of the award under Section 11, is not applicable to the present case.

23. Apart from the above, it is necessary to consider the limitation under Section 28-A (3) of the Act, which prescribes the limitation in accordance with Section 18 of the Act. Section 18(2)(b) of the Act prescribes a limitation of six weeks; thus, the period of limitation to file a written application for reference is six weeks from

the date of receipt of the notice. On perusal of the record, it reveals that the application under Section 28-A of the Act was decided by the Collector on 07/03/2017, and the intimation of the order was received by the claimant on 03/05/2017, as evident from the postal envelope (Exh.43). Therefore, the period of limitation is reckoned from 03/05/2017. The record clearly indicates that the application was filed on 01/06/2017. The reference was thus filed within the prescribed period of six weeks. In view of the above discussion, I conclude that the application under Section 28-A of the Act, as well as the present application under Section 28-A(3), were filed within the period of limitation by the claimants.

24. Before entering into the discussion, it is proper to mention the object of the provision under Section 28-A of the Act. This provision provides an opportunity to a landowner who may not have applied under Section 18 of the Act for determination of the market value by the Court, to seek redetermination of compensation. Section 28-A makes it clear that the Collector may redetermine the amount of compensation payable to the claimants on the basis of the amount of compensation awarded by the Court. Any person who does not accept the award under Sub-section (2) of Section 28-A may, by written application to the Collector, require that the matter be referred for determination by the Court.

25. In the present case, the Collector rejected the application under Section 28-A (2) of the Act. Therefore, the claimants availed the remedy under Section 28-A (3) of the Act to file the present reference before the Court. Accordingly, the reference has been filed in this Court. Chandrakant Keshav Barpate deposed that he did not file a reference under Section 18 of the Act before the Court. The

claimants have filed the copies of awards passed by the Court under Section 18 of the Act in respect of land acquired by the same Notification under Section 4 of the Act. In view of Section 28-A (1) of the Act, the claimants are entitled to compensation awarded by the Court under Section 18 of the Act for the land acquired under the same Notification under Section 4 of the Act. Therefore, while deciding this reference, the judgments in L.A.C Nos. 03/2005, 29/2005 and 30/2005 passed under Section 18 of the Act in respect of land acquired under the same Notification under Section 4 of the Act need to be considered.

26. On perusal of the judgment in L.A.C. Nos. 03/2005 & 7/2005 it appears that these judgments relate to lands acquired under the same Notification issued under Section 4 of the Act dated 14/02/2002. It further appears that the Court granted compensation to the other landowners at the rate of Rs. 17,000/- per Are.

27. During the argument, the learned Advocate for the respondents submitted that the claimants have not adduced any sale deed to prove that the compensation granted by the S.L.A.O. is inadequate. The learned Advocate for the claimants, however, submitted that Section 28-A speaks about redetermination on the basis of the order passed by the Court under Section 18 of the Act, and therefore, there is no need to produce any documentary evidence.

28. It is pertinent to mention that Section 28-A of the Act has been enacted to ensure parity in the payment of compensation to all landowners whose lands have been acquired under the same Notification issued under Section 4 of the Act. It is a beneficial

provision, which clearly provides that if land has been acquired under the same Notification under Section 4 of the Act, and some landowners have not claimed compensation under Section 18 of the Act, but the Court has granted enhanced compensation to other landowners under Section 18 of the Act, then the remaining landowners are entitled to the same rate of compensation as granted by the Court.

29. In the present reference, the claimants have sought redetermination of compensation on the principle of parity. The claimants have produced certified copies of judgments passed by the Court under Section 18 of the Act in respect of lands acquired under the same Notification issued under Section 4 of the Act. It is a settled principle of law that all landowners whose lands have been acquired under the same Notification are entitled to the same compensation amount for the acquired land on the ground of parity. Hence, on the ground of parity, the claimants are entitled to the same rate of compensation as granted by the Court for other landowners, as per the judgment passed in L.A.C. Nos. 03/2005 & 7/2005. Thus, I am of the view that on the basis of judgments passed in L.A.C. Nos. 03/2005 & 7/2005, the claimants have established that the compensation awarded to them is inadequate. Therefore, the claimants are entitled to enhanced compensation for their acquired land at the same rate granted to other landowners under Section 18 of the Act by the Court. Hence, the claimants are entitled to enhanced compensation at the rate of Rs. 17,000/- per Are for the acquired land.

30. In view of Section 23 of the Act, the claimants are entitled to 30% solatium and 12% interest on the enhanced market

value. Further, the claimants are also entitled to interest under Section 28 of the Act, i.e., at the rate of 9% per annum for the first year from the date of the award, i.e., 04/02/2003, and thereafter at the rate of 15% per annum until realization of the entire enhanced compensation amount.

31. While granting enhanced compensation it is necessary to deduct the compensation amount already awarded by the S.L.A.O. from the enhanced compensation amount. Thus, considering the above discussion, I hold that the claimants are entitled to enhanced compensation at the rate of Rs. 17,000/- per Are for their acquired land, along with relief under Sections 23 and 28 of the Act. In the result, I record my finding to issue No. 1 & 1-A accordingly, and I pass the following order to record my finding to issue No. 2:

ORDER

The reference under Section 28-A (3) is allowed with costs on the following terms:

i) The respondents do pay enhanced compensation for the acquired land, i.e., 14 Ares out of Gat No.3905 of village Kameri, Taluka Walwa, District Sangli, at the rate of Rs. 17,000/- (Rupees Seventeen Thousand only) per Are to the claimants.

ii) The claimants are entitled to 30% solatium and 12% interest on the enhanced market value of the land as per Section 23 of the Act.

iii) The compensation already awarded/paid to the claimants by the S.L.A.O. shall be deducted from the enhanced compensation amount.

iv) The respondents shall pay interest to the claimants at the rate of 9% per annum for the first year from the date of the award, i.e., 04/02/2003, and thereafter at the rate of 15% per annum until realization of the entire enhanced amount, in accordance with Section 28 of the Act.

v) The claimants shall pay the requisite court-fees, if any.

vi) The award shall be prepared accordingly.

Islampur.

Date: 07/03/2026

(Bhagwan M. Karlekar)

Jt. Civil Judge Senior Division, Islampur.

<i>Evidence closed on</i>	<i>07/03/2026</i>
<i>Argument heard on</i>	<i>07/03/2026</i>
<i>Judgment delivered on</i>	<i>07/03/2026</i>
<i>Judgment directly taken on Computer</i>	<i>07/03/2026</i>
<i>Checked on</i>	<i>10/03/2026</i>
<i>Signed on</i>	<i>10/03/2026</i>

C E R T I F I C A T E

I affirm that the contents of this P. D. F. file of Judgment are same, word to word, as per the original Judgment. Name of the Stenographer: Shri. S. K. Patil.
