

CNR No. MHYA230019032020



Received on : 30/07/2013
Registered on: 30/07/2013
Decided on : 12/03/2026
Duration : 12 Yrs.07 Ms.13Ds.

THE COURT OF CIVIL JUDGE SENIOR DIVISION,
UMARKHED, DISTRICT YAVATMAL.
(Presided over by **Hemant S. Bhure**)

Land Acquisition Reference No.66/2013 **Exhibit No.35**

Laxmibai Sambharao Gawande,
Age : 50 Years, Occ. Agriculturist }
R/o. Uti, Taluka Mahagaon, } **...Claimant**
District Yavatmal. }

VERSUS

1. State of Maharashtra }
Through The Collector, Yavatmal. }
2. The Executive Engineer, }
Minor Irrigation Department }
Pusad, Tq. Pusad, Dist.Yavatmal }
3. The Deputy Collector/ }
Special Land Acquisition Officer }
Upper Painganga Project, Pusad }
Taluka Pusad, District Yavatmal. } **..Respondents**

Appearances :-

Shri. V. V. Pande, Learned Advocate for claimant.
Shri M. K. Kaleshwarkar,A.G.P. for respondent Nos.01 & 03.
Shri R. N. Kothari, Learned Advocate for respondent No.02.

J U D G M E N T

(Delivered on 12th day of March,2026)

This reference application is presented by the claimants vide Section 18 of Land Acquisition Act (here-in-after referred to as the 'Act') for getting enhancement in compensation awarded by Special Land Acquisition Officer (here-in-after referred to as the 'S.L.A.O.').

Brief fact of the reference application are as under:

2) In this reference application the S.L.A.O. has been acquired 00H.27R land of the claimant out of Survey No.105 situated at village Hingani, Tal. Mahagaon, Dist. Yavatmal have been acquired by the S.L.A.O. in the proceeding bearing LAC No.2/47/2001-2002 for the construction of main cannel of Jamnala Laghu Patbandhare. The S.L.A.O. initiated the acquisition proceeding on 08/09/2011 and 31/10/2011 by publishing notification under Section 4 of the Act in Maharashtra Government Gazette. The notification u/s 6 of the Act was published on 17/02/2012 and 07/04/2012 in gazette. Notice u/s 12(2) of the Act dated 01/04/2013 was received by the claimant. In the meantime on 30/03/2013 the award u/s 11 of the Act is passed by the S.L.A.O. Claimant is awarded compensation at the rate of Rs.1,37,500/- per hector with other statutory benefits.

3) The claimant is dissatisfied with the quantum of

compensation awarded by the S.L.A.O. and therefore he has preferred this reference application u/s 18 of the Act for enhancement of compensation.

4) According to the claimant, she was cultivating the acquired land personally, her land is most fertile land in the vicinity and the claimant was raising crops two times in a year. The land is very rich fertile having high yielding best Rabi and Kharif crops.

5) According to the claimant, the SLAO has not considered existing sale instances and wrongly ignored sale instances of higher rates. The SLAO has also ignored Government Resolution and Circulars while considering sale instances prior to five years of the notification. So the claimant is claiming additional compensation for acquired land and also claiming consequential benefits.

6) Respondent Nos.1 to 3 are resisted the reference application by filing written statements at Exh.7 and Exh.19. According to them, S.L.A.O. has considered the situation of the land under acquisition and also taken into consideration all other factors while assessing the market price on the date of notification u/s 4 of the Act. So the claim of the claimant is exorbitant based on false and imaginary grounds. So prayed to reject the application.

7) I have framed issues at Exh.20. Same are reproduced under and the findings on them are recorded

for reasons to follow;

Sr. No.	ISSUES	FINDINGS
1.	Whether claimant prove that the compensation awarded by Special Land Acquisition Officer is inadequate ?	... Yes.
2.	Whether claimant is entitled for enhance compensation ?	... Yes.
3.	What order ?	As per final order.

REASONS

8) The claimant Laxmibai Sambharao Gawande examined herself at Exh.21. She has also filed certain documents. I shall refer them hereinafter at appropriate places. The respondents have not lead any evidence.

AS TO ISSUE NO. 1 AND 2 :-

9) Both these issues are interlinked with each other, hence, taken together for consideration. The claimant is coming with the case that, the compensation awarded by the S.L.A.O. is inadequate and she is entitled for the enhanced compensation. Hence, burden lies upon the claimant to prove her case.

10) According to claimant, she was owner and

possessor of her land. In the Award(Exh.22) it is mentioned that her title is verified from the revenue record as well as by local inquiry. The 7/12 extract of the acquired land (Exh.32) corroborate the said facts. The respondents also do not denied the title and possession of the claimant. In these circumstances, there is no reason to discard the say of the claimant that she is the interested person of the acquired land.

11) According to the claimant, the compensation awarded by the SLAO is inadequate. Hence, she has sought to determine the compensation on the date of publication of notification under section 4 of the Act i.e. 31/10/2011.

12) The claimant her examination-in-chief (Exh.21) has reiterated the contents of the reference. She has categorically submitted the nature of the acquired agricultural land as irrigated/bagayat. The claimant has filed 7/12 extract at Exh.32 on record. The entries therein shows the availability of irrigation facility in the acquired land i.e. Well and bore-well. Respondents did not place any contrary evidence against it.

13) The claimant in her reference and in her examination-in-chief on affidavit contended that her land was perennially irrigated with well water through out the year. The land was fertile, rich black cotton soil, having yielding capacity. She used to take crops like sugarcane,

wheat, turmeric, tur, cotton, moong, udit, jawari and gram etc.

14) Upon perusal of entries made in 7/12 extract Exh.32 the crops like cotton and soyabean are frequently taken. She has filed some receipts of Pushpawanti Co-operative sugar factory, Pusad at Exhs.25 to 28. But during cross-examination she has categorically admitted that the said receipt does not bear survey number of the land. She has also admitted that there is no entry of sugarcane crop in the 7/12 extract of acquired land. She has not filed any other supportive evidence to shows that she used to take crop of sugarcane in the acquired land prior to acquisition. Therefore, in absence of supportive evidence, I find that though the irrigation facility is available in the acquired land, however, the acquired land was not perennially irrigated land. Therefore, I come to the conclusion that the acquired land was seasonally-irrigated land.

15) The claimant in her reference and in her examination in chief on affidavit further contended that the land was of high potentiality. She further contended that, the acquired land is adjacent to road. It is situated on Pusad-Mahagaon state highway. It is short distance from Pusad city where all civil facilities and factories are available. Therefore, the prevailing market value for the land in the vicinity was very high. During her cross-

examination she has denied all material suggestions of the respondents that the SLAO after considering all aspects determined reasonable and proper value of the land. Mere denied suggestions are not sufficient to discard her evidence.

16) In support of claim the claimant has also relied on sale-deed at Exh.29. It shows that Sanjay Rajaram Dhotre, Laxman Rajaram Dhotre, Shankar Rajaram Dhotre, and Smt. Sarja Rajaram Dhotre sold 00H.40R out of survey No.108 situated at village Hingani/Rajura. Tal. Mahagaon, Dist. Yavatmal to Sau. Sitabai Suryabhan Shinde for the consideration of Rs.1,00,000/- i.e. Rs.2,50,000/- per hectare. The claimant during her cross-examination denied that the lands in the sale instance relied by her is of higher quality than the acquired land. As such nothing material has been elicited in her cross-examination. She has denied all the suggestions given to her.

17) The respondents have not adduced any evidence. They merely relied on certified copy of Award(Exh.22) filed by the claimant.

18) The Award(Exh.22) discloses that the SLAO has considered 14 sale instances took place in the village during the period from 12/04/2006 to 12/05/2011. He however, by discarding sale instances, assessed value as per the ready reckoner and determined at the rate of Rs.1,25,000 and

Rs.1,37,500/- per hectare to the lands of class-I and class-II respectively. The justification for discarding the sale instances of higher rates does not appear to be satisfactory and convincing.

19) The award(Exh.22) discloses that the sale instance at Sr.No.10 is of highest rate amongst all instances. The same sale instance i.e. sale-deed (Exh.29) is relied by the claimant in this case.

20) In the case of **Sri. Rani M. Vijaylaxmamma Rao Bahadur, Ranee of Vuyyur Versus Collector of Madras(1969)1MLJ 45(SC)** Hon'ble Supreme Court has observed that, "where sale deeds pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the the rest unless there are strong circumstances justifying a different course". In **Mehrawal Khewaji Trust(Regd) Faridkot and others Versus State of Punjab and others** the Hon'ble Supreme Court has observed that, "it is clear that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction, has to be considered and accepted".

21) In view of above guidelines it is just and proper to consider and accept value of the land under sale instance i.e. sale instance at Sr. No.10 which is relied by the

claimant for determination of correct market value.

22) The date of notification is 31/10/2011, whereas the date of sale-deed(Exh.29) is 09/04/2008. It indicate that this sale-deed is proximate in time. The area mentioned in sale-deed indicate that size of land is considerably large. Thus, the land under this sale-instance is being anterior to and proximate in time, considerable large and similar size, similar quality and from the same village deserve for comparison to determine value of acquired land.

23) Date of notification of the acquired land is 31/10/2011 i.e. more than 03 Year, 06 Months and 22 Days posterior to the date of sale-instance. In the case of **Defence Research and Development Organization Versus Anjanappa and Anothers 2014 SAR (Civil) 560** the Hon'ble Supreme Court has upheld conclusion of High Court regarding adoption of the method of 10% increase every year in the market value of the land. Hence, taking into consideration probable rise in the prices, it would be just and proper to increase value of the sale-instance by yearly 10 per cent. By application of this analogy on 31/10/2011 value of the land would come to Rs.2,50,000+87,500 (2,50,000 X 35%)=Rs.3,37,500/- per hector.

24) The claimant has not examined parties to the sale-deed to throw light on the material aspect as to how

and in what circumstances price of the land has been fixed. In such circumstances it needs to consider the surrounding circumstances which normally play role in fixing price of the lands.

25) The sale-deed (Exh.29) discloses that on northern boundary of the purchased land there is remaining land of the purchaser. Normally, the land holders remain more interested in acquiring their adjacent lands even by paying higher price than the normal prevailing market rate. This sale-deed discloses that the market price of the land is Rs.75,000/- per hectare. The purchaser has purchased this land at the rate of Rs.2,50,000/- per hectare. Thus it is clear that it is purchased by paying more than triple rate of the market price. This is a plus factor with reference to the sale-deed and minus factor with reference to the acquired land. Considering this aspect it would be just and proper to reduce value of the sale instance by 50%.

26) Except the aforesaid factor no factor is noticed which affects valuation of the land. In such circumstances, in view of aforesaid discussion, it would be just and proper to reduce value of the sale instance by 50%. By application of this analogy valuation of land would come to Rs.3,37,500 – 1,68,750 (3,37,500 X 50 %) = 1,68,750/- per hectare.

27) The sale-deed (Exh.29) disclosed the land

therein referred as non-irrigated land. In this reference application, I have already held that the acquired land of the claimant is of the seasonally irrigated in nature. The *Hon'ble Bombay High Court, in the case of State of Maharashtra vs Baliram Patil, reported in Mah. L. J. page 82,* observed that price of seasonally-irrigated land is about one and half time of non-irrigated land and price of perennially irrigated land is double of the non-irrigated land. By application of this analogy on 31/10/2011 value of the seasonally-irrigated would come to Rs.1,68,750+84375 = 2,53,125/- per hectare.

28) The respondents have not brought on record any other evidence which affects the value of land. Therefore, the claimant deserves the aforesaid value of her acquired land at the rate of Rs.2,53,125/- per hectare. Therefore, the compensation awarded by the S.L.A.O. to the claimant is inadequate as such the claimant is entitled to get enhanced compensation for the acquired land along with all statutory benefits. Hence, I answer issue No.1 and 2 in the affirmative.

AS TO ISSUE NO. 03 :-

29) From the findings supra, claimant is certainly entitled to receive the enhanced compensation for her acquired land supra, but not at the rate she has claimed for. Therefore, this application deserves to be partly allowed.

30) Section 23(2) of the Act provides for the grant of solatium and I do not find any reason for not granting it to claimant. Therefore, in addition to enhanced compensation, claimant is entitled to 30% amount as a solatium on the amount of compensation. Similarly, section 23(1-A) of the Act provides for the grant of an amount at the rate of 12 % per annum on the market value from the date of notification under section 04 of the Act till the date of passing of award or the date of taking of possession of the acquired land, whichever is earlier. Claimant is entitled to this amount as well.

31) Section 28 of the Act provides that when the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of 09% per annum from the time of so taking possession to the date of payment of such excess into Court. Its proviso says that, if the amount is not paid or deposited within a period of one year from the date which the possession is taken, the interest at the rate of 15% per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry. Hence, as per this proviso, claimant is entitled to the interest at the rate of 09 % per annum for one year from the time of taking of possession and after the expiry of said period of

one year, claimant is entitled to interest at the rate of 15% per annum till actual realization of the entire amount.

32) As per ratio laid down in State of Maharashtra Vs. Chandrakant Mangilal Samdadia reported in 2013 (1) Mh.L.J. 397, interest under section 28 of the Act is payable on the excess amount granted by the Reference Court under all the three components of compensation i.e. market value under section 23(1), solatium under section 23 (2) and interest under section 23(1-A) of the Act.

33) General rule is that, the victorious party receives the costs from losing party. Claimant is entitled to enhanced compensation, but not at the rate claimed by them. Therefore, cost must be awarded to claimants, but it must be in proportion to the enhancement. Finally, I answer last issue as reference application is partly allowed with proportionate costs and pass the following final order;

ORDER

1)	Reference application is partly allowed with proportionate costs.
2)	The respondents shall pay to the claimants enhanced compensation for 00H.27R out of survey No.105 situated at Hingani, Tal. Mahagaon, Dist. Yavatmal at the rate of Rs.2,53,125/- (Rupees Two Lakhs Fifty Three Thousands One Hundred Twenty

	Five Only) per hector, on the last date of publication of notification under section 04 of The Land Acquisition Act, 1894 (i.e.31/10/2011).
3)	Claimant is entitled to get solatium at the rate of 30 % on the market value.
4)	On the amount of market value of the acquired land, solatium and an amount @12% under section 23(1-A) of The Land Acquisition Act, 1894, the claimants are entitled for the interest at the rate of 9% per annum for one year from the time of taking possession and interest at the rate of 15% per annum from the date of expiry of the said period of one year till actual realization of the entire amount.
5)	Amount awarded by respondents as per award to claimant shall be deducted while making above calculations.
6)	The claimant do pay requisite court fees, if any.
7)	Award be prepared accordingly.

Umarkhed

Dated : 12/03/2026.

(Hemant S. Bhure)

Civil Judge Senior Division,
Umarkhed.

CERTIFICATE

I affirm that, the contents of this PDF file Judgment are same, word to word as per the original judgment.

Name of the Stenographer	:-	R. R. Warankar, Gr.II
Name of the Court	:-	Civil Judge(Sr.Dn.) Court, Umarkhed
Judgment date	:-	12/03/2026
Judgment signed by the Presiding Officer on	:-	12/03/2026
Judgment uploaded on	:-	12/03/2026