

MHPA110003602016



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Decided on : 09.07.2026.

Duration 10 Y - 01M - 03Ds.

IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION,
GANGAKHED, DIST. PARBHANI.

(Presided over by Gajanan B. Yadav)

L.A.R.No.70/2016.

Exh.(43)

1. **Vitthal S/o Gajendra Giri (Died),**
Through, his legal heirs
- 1/1. **Dagdu S/o Vitthal Giri,**
Age – 57 years, Occ. – Agril,
- 1/2. **Avadhut S/o Vitthal Giri,**
Age – 50 years, Occ. – Agril,
Both R/o. Ukhali (Bk), Tq. Sonpeth.
- 1/3. **Ashabai W/o Shankar Puri,**
Age – 55 years, Occ. – H.H.,
R/o. Makhani, Tq. Gangakhed,
Dist. Parbhani.
- 1/4. **Parvati S/o Shriman Ban,**
Age – 53 years, Occ. – H.H.,
R/o. Thar, Tq. Manwat,
Dist. Parbhani.

... Petitioners

VERSUS

1. **The State of Maharashtra,**
Through it's Collector, Parbhani,

2. The Special Land Acquisition Officer,
J.P. No.1 Parbhani,

3. The Executive Engineer,
Majalgaon Canal, Division No.10,
Parbhani.

... Respondents.

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Claim : Reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation.
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Shri. J.B.Giri, Advocate for petitioners.
A.G.P. Shri.S.D. Wakodkar for respondent nos.1 & 2.
Shri. R.L.Wadkile, Advocate for respondent no.3.

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J U D G M E N T
(Delivered on this 9th day of July, 2026)

The petitioners have preferred present reference under Section 18 of the Land Acquisition Act, 1984 for enhancement of compensation in respect of acquired land.

Facts of the reference, in brief, are as under-

02. It is the case of petitioners that the respondents had proposed to acquire their following lands for the purpose of “Canal” of village Ukhali, Tq. Gangakhed, Dist. Parbhani:

Sr. No.	Name of Party	Gut/ Survey Number	Area	Village
1-	Vitthal S/o Gojendra Giri	168/1 & 168/2	33 R & 1 H 66R	Ukhali (Bk)

03. Petitioner is owner and possessor of the above mentioned land. Said land acquired by the Government for the purpose of 'canal' (चारी) for Jayakwadi Project. Executive Engineer of Jayakwadi Sub-Division No. 33 taken trial pits in above said land in the year 1986 and send his proposal of acquisition to S.L.A.O. J.P. No.1 Parbhani. Prior to it the Executive Engineer taken possession of said land and informed the petitioner, acquisition proceeding are started about land Survey nos. 168/1 & 168/2 on 15.01.1987 Dy. Engineer requested the that petitioner should not make obstruction in digging work.

04. For the purpose of acquisition of the said land the proceeding were started by the Land Acquisition Officer and notices were issued under various section fo the Land Acquisition Act. After the notice under section 9 of L.A. Act the petitioner claimed the compensation @ Rs. 30,000/- per acre. As per the Award, it is clear that the compensation Awarded by the S.L.A.O. is inadequate and the amount of compensation under award withdrawal by the petitioner under protest.

05. The land is use for building construction and adjacent to gavthan area. Out of some portion same land has been used for residential, market price of said land near about Rs.1,000/- per guntha in the year 1987. The S.L.A.O. has not taken into consideration the situation factor of the land and the market price of the same.

06. The village Ukhali (bk) which is adjacent to Parli (V) and Gangakhed town. The village Ukhali (Bk) is on State high-way and Railway line between Gangakhed and Parli (V). There is demand of plot for residential purpose. The land in question is adjacent with Gavthan area and newly constructed house by Government. So there is much more demand to it. But, S.L.A.O. had not taken into consideration the above said facts and awarded very meager amount as compensation.

07. The actual excavation work started in the year 1986, hence, the petitioner could not use the land Since 1986-87 to date of final Award. The petitioner used to fetch the year income of Rs.1,000/- per acre excluding the cost of cultivation, Thus, the total income form the acquired portion of the land is Rs.5,000/- per acre. As the petitioner could not get the crops for the period of five years from 1986-87 to 1990-91, hence he has sustained a loss of Rs.25,000/-.

08. The S.L.A.O. has fixed the compensation of the acquired land at the rate of Rs. 150/- Per R only which is very meager and he has fixed total compensation for land 33 R and 1 H. 66 R at Rs. 29,850/- and the same being very less the petitioner challenges the same and claimed enhanced compensation. The market price of such type of land was not less than Rs.30,000/- per acre, hence, the petitioner claimed the compensation @ Rs.30,000/- per acre which comes to Rs.1,50,000/-.

09. Petitioner mentioned above factor and reason, claims enhanced compensation as under;

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|----|--|-------------------|
| 1. | Value of the land Gut No.168/1 and 168/2 to the extent of 33 R and 1H 66 R (5Acres) of village Ukhali (Bk) @ Rs.30,000/- per acre. | 1,50,000/- |
| 2. | Loss caused due to the excavation work from 1986-87 to 1990-91 @1,000/- for 5 years per acre per year. | 25,000/- |
| 3. | Compensation awarded by S.L.A.O. | 29850/- |
| 4. | Enhanced compensation claimed under this reference. | 1,45,150/- |

10. Besides the above compensation the petitioner also claimed solatium over the above amount at the rate of 30% and the interest at the rate of 12% p.a. from the date of taking possession of land i.e. 1986-87 til realization of entire amount. The petition is valued for the purpose of jurisdiction and possess at Rs.1,45,150/-.

11. The respondent nos.1 and 2 submitted their written statement vide Exh.8 while respondent no.3 has filed its written statement vide Exh.11 wherein they denied entire case of petitioner and submitted that Special Land Acquisition Officer had determined the then market value by considering the factors such as fertility, location, proximity of land acquired, potential value, utility etc. of said land. They claim that Special Land Acquisition Officer had

granted reasonable compensation to petitioner. They further submitted that the claim of petitioner is not within limitation and may be rejected as the compensation claim is exorbitant.

12. On rival contentions of both the parties the issues framed at Exh.12 and I have recorded my findings and reasons as under:

ISSUES

FINDINGS

- | | |
|---|----------------------------|
| 1) Whether petitioner prove that the compensation awarded to them under Award in this case was inadequate ? | ...In Negative. |
| 2) Whether the petitioners are entitled to enhanced compensation ? | ...In Negative. |
| 3) Whether claim is within limitation ? | ...In affirmative. |
| 4) Whether the petitioners are entitled to solatium and interest as per request. | In Negative |
| 5) What order or Award? | ...As per the final order. |

REASONS

13. In order to substantiate their claim, the petitioners filed evidence affidavit of following witnesses:

Sr.No.	Name of the witness	Exhibit
1-	Avdhut Vitthal Giri	18

14. So far as documentary evidence is concerned, the petitioners relied on following documents and closed their evidence by filing pursis at Exh.40.

Sr.No.	Documents	Exhibit
1-	Appendix	21
2-	Statement of Award	22
3-	Appendix-6	23
4-	Award Statement-E	24
5-	Death Certificate	25
1-	Copy of Award Statement (E)	26
2-	Copy of C.C. Report	27
3-	7/12 extract of Gut No.168	28
4-	Valuation Certificate	29
5-	Certified copy of Sale-deed No.192/90	33

15. The respondent nos. 1 and 2 closed their evidence by filing pursis at Exh.41. The respondent nos.3 failed to adduce evidence, therefore, their side of evidence closed vide order passed below Exh.01.

ISSUE NO.3 (AS TO LIMITATION) :-

16. Since the issue pertains to the very root of the reference, hence it is taken up for discussion as first one.

17. The Section 18 of the Land Acquisition Act deals with limitation for preferring reference. It provides that the application for reference ought to be filed within six weeks from the receipt of the notice under Section 12(2) or within six months from the date of Collector's Award, whichever period shall first expires. In view of this

legal proposition, the reference made is required to be looked into.

18. Admittedly, the award was passed on 27.03.1991. As per E -statement at Exh. 24 and 26 petitioner received amount on 22.08.1991. Application under Section 18 has been filed on 30.09.1991 as per Appendix – VI. Thus, application filed within six months from the date of knowledge and when compensation was paid to him, held to be within limitation. Accordingly, I answer the issue in Affirmative.

AS TO ISSUE NOS.1, 2 & 4 :-

19. It is the case of petitioner that the compensation awarded to him is inadequate and unreasonable one. He is entitled to get enhanced compensation. To prove this, they relied on testimony of Avdhut Vitthal Giri whose affidavit in lieu of examination in chief is filed vide Exh.18, who has stated his entire case on oath. He claimed that the Special Land Acquisition Officer has not considered the potentiality, fertility and proximity of their land while determining the then market value of their land. He claimed their lands used to yield income of Rs.1,000/- per acre. It could have got Rs.30,000/- per Acre as market value. However, the S.L.A.O. neglected and overlooked all these things and applied average price theory and capitalization method and granted paltry amount of Rs.150/- per R holding the land as dry, which is grossly inadequate. Therefore, he claimed enhanced compensation at the rate of Rs.30,000/- per acre.

20. The Ld. Advocate for respondents subjected the witness for cross examination. Wherein, he stated that he has not submitted any document regarding plotting near the acquired land and also not produced document showing that he was getting income Rs.5,000/-. He has also not produced any document before SLAO speaking rate was per Rs. 1000/-/

21. To prove the then market value of acquired land, petitioners relied on following sale-instances, The details of sale-deeds in tabular form is as under:

Sr. No.	Exh. No.	Sale-deed No.	Village	Gut No. & Area	Costs	Rate per R
1)	Exh.33	901-192/1990 dt. 19.01.1990	Ukhli (Bk), Tq. Gangakhed	0H.01 R	Rs.3,000/-	Rs.3000/

22. Petition is silent about the number of Award and its date. It is the letter issued by collector office which speaks about the Award no. as LAQ/SR/6/1988 dated 18-10.1991 but another letter speaks different date of Award such as 27.03.1991. So it is not clear as to what is the correct date of Award. The copy of Award which is filed along with petition seems to be different as it pertains to LAQ/SR/89/03 dated 28-10-1991 and for the land acquired from the village Akoli and not from the village Ukhali.

23. It is not in dispute that land of petitioner was acquired and amount of compensation has been received by the petitioner

under protest. When the question of inadequacy of the compensation has to be decided in such circumstances the Award is the crucial document which could have throw light on the aspect as to which factor were considered and which factors were ignored by the SLAO. But no such Award has been placed on record by either party.

24. For the ends of justice this could has also issued letter to District collector Parbhani for producing copy of Award and my predecessor by passing an order below Exh. 1 directed the the petitioner to submit the copy of Award. But all attempts are in-vain. In absence of Award it cannot be decide as to compensation granted was adequate or in adequate. Moreover the sale deed relied by petitioner was ever placed before SLAO or not also not cleared. Matter being 10 year old and sufficient opportunity granted to both parties for producing copy of Award but it was not filed. Consequently I recorded my findings in negative on issue no. 1, 2 and 4 and proceed to pass following order.

ORDER

1. The reference is hereby Dismissed
2. No order as to cost.
(Dictated and pronounced in open court)

Dated:- 09.07.2026

(Gajanan.B. Yadav),
Civil Judge, Senior Division,
Gangakhed.