



IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.336 OF 2025

Mahadan Real Estate Pvt. Ltd.

A company registered under the Companies Act, 1956

having its registered office at Salgaoncar House,

Off. Dr. F. L. Gomes Road,

Vasco- Da- Gama, Goa.

.. Petitioner

V/s.

Special Land Acquisition Officer,

Goa State Infrastructure Development Corp. Ltd.

8th Floor, EDC House, Dr. A.B. Raod,

Panaji- Goa.

...Respondent

Ms. Priyanka Kamat along with Ms. Cijoni Dias and Ms. Kiran Rai,
Advocates for the Petitioner.

Ms. Maria Simone Judith Correia, Additional Government Advocate
for Respondent.

CORAM : VALMIKI MENEZES, J.

RESERVED ON : 8th August, 2025.

PRONOUNCED ON : 14th August, 2025.

JUDGMENT :

1. Registry to waive office objections and register the matter.
2. Heard learned Counsel for the parties.

3. Rule. Rule is made returnable forthwith at the request of and with the consent of the learned Counsel parties.

FACTS:

4. The Petitioner has approached this Court, invoking its powers under Articles 226 and 227 of the Constitution of India, to challenge the Order dated 10.12.2024 (hereinafter referred to as the “**impugned order**”) passed by the District and Sessions Court, Mapusa, in Land Acquisition Case No. 8 of 2014, dismissing the Petitioner’s application for the production of additional documents (a Deed of Sale dated 22.04.2004) at Exhibit D-57 of the record of the Trial Court.

SUBMISSIONS:

5. Ms. Priyanka Kamat, learned Advocate for the Petitioner, submits that the said Deed of Sale came to the knowledge of the Petitioner only when it was discussed by AW-2 at paragraph 10 in his Affidavit in Evidence and in his cross examination. This said Deed of Sale pertains to the sale of a portion of Survey No. 60/0 at the value of Rs. 150/- per square meter. Given that Survey No. 60/0 forms a part of the subject matter of the Reference under Section 18 for redetermination of compensation for acquisition, which was fixed by the LAO at the rate of Rs. 45/- per square meter, it is essential for the Petitioner to rely on the said Deed of Sale to ascertain their claim of enhanced compensation adequately.

6. The following precedents have been cited by Ms. Kamat to establish the Petitioner’s case:

- (i) *Hiralal Motilal Parikh v. Spl. Land Acquisition Officer & Anr.*, Civil Appeal No. 1438 of 2016, decided on 27.03.2025, Supreme Court of India.
- (ii) *R. P. Conduit Mfg. Co. v. Union of India*, 1977 SCC OnLine Del 125.
- (iii) *Special Land Acquisition Officer, Bombay v. Harichandra Ramji Patil*, 2000 (1) Mh. L. J. 256.
- (iv) *Chitrakala Fal Dessai v. Balu Marathe alias Mane*, 2006 (6) Mh.L.J. 428.
- (v) *Natalin Araujo Fernandes & Ors. v. Etelvina Monteiro & Ors.*, 2012 SCC OnLine Bom 1983.
- (vi) *Narullah Kamruddin Veljee v. Vishwambhar Kashinath Palekar*, 2016 SCC OnLine Bom 149.
- (vii) *Land Acquisition Officer v. Gonda Chinna Rajanna & Ors.*, 1999 SCC OnLine AP 1112.
- (viii) *B. S. Ramaswamy v. Land Acquisition Officer*, 1998 SCC OnLine Kar 510.
- (ix) *Land Acquisition Collector v. Smt. Sita Del & Anr.*, 2007 SCC OnLine Ori 19.
- (x) *D. Rasaranjan & Anr. v. Y. Raja Rajeshwari & Ors.*, 1986 (1) (HC) 110, Andhra Pradesh Law Journal.

7. *Per contra*, Ms. Maria Correia, learned Additional Government Advocate representing the Respondent has submitted as follows:

- (A) That considering the provision of Section 53 of the Act makes CPC applicable to all proceedings before a court, the Application

for reference filed before the LAO under Section 18 and Statement of Claim of the Petitioners should be treated as a plaint and as such provisions of Order 11 and Order 13 of The Code of Civil Procedure (hereinafter referred to as “CPC”) would apply to the said Application and Statement of Claim. The Petitioner would therefore be required to demonstrate due diligence before the application could be allowed.

(B) That the said application for production of additional document has been filed belatedly, which is not permissible, especially when the Petitioner has not stated the reasons to ascertain why the said Deed of Sale could not be produced at the earliest available opportunity when the same was in their possession on 24.10.2024, but was only produced on 21.11.2024 and that allowing the Petitioner’s application for production of such additional document at this stage would cause grave prejudice to the Respondent State

(C) That the said Deed of Sale sought to be produced on record does not find a mention in the List of Documents which demonstrates negligence and lack of due diligence on the part of the Petitioner. That there is no explanation in the application for production of additional document pertaining to the delay of over 12 years in producing the said Deed of Sale.

8. In support of her submissions, Ms. Correia has placed reliance on the following judgments:

(i) ***Genai Rai v. State of Bihar***, 1984 SCC OnLine Pat 135.

- (ii) *Satish Kumar Gupta & Ors. v. State of Haryana & Ors.*, (2017) 4 SCC 760.
- (iii) *Khazan Singh (Dead) by Lrs. v. Union of India*, (2002) 2 SCC 242.

CONSIDERATIONS:

9. The question that now falls for consideration is whether, in the light of provision of Section 53 of the Land Acquisition Act, 1894, the impugned order merits interference. To decide the same, the factual background of the present petition, which is delineated below, merits consideration:

(A) That the Petitioner had purchased Survey No. 56/3 by executing a registered Deed of Sale dated 29.11.1996, Survey No. 60/0 by a registered Deed of Sale dated 28.02.1994 and Survey No. 52/0 was purchased by the sister concern company of the Petitioner (which later merged with the Petitioner in 2012) by a registered Deed of Sale dated 13.08.1992.

(B) That vide notification dated 01.04.2007, the State Government sought to acquire, for the construction of approaches to Bridge at Amona Viridi across the Kudnem River at village Amona and Viridi in Bicholim Taluka, the following properties owned by the Petitioner:

- (i) an area admeasuring 815 m², comprised in Survey No. 56/3 of Village Amona,

(ii) an area admeasuring 4501m², comprised in Survey No. 60/0 of Village Amona,

(iii) an area admeasuring 7852m², comprised in Survey No. 52/0 of Village Amona.

(C) That the Land Acquisition Officer (hereinafter referred to as the “**LAO**”), vide Award dated 24.08.2011, determined the market value of the acquired properties at the rate of Rs.45/- per square meter.

(D) On 10.08.2012, the Petitioner filed an Application before the Collector under Section 18 of the Land Acquisition Act, 1894 to refer the matter to the District Court for redetermination of the compensation awarded.

(E) A reference was made by the Collector to the District and Sessions Court, Mapusa, which came to be registered as Land Acquisition Case No. 8/2014, pursuant to an application made by the Petitioner for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894, for Survey Nos. 56/03, 60/0 and 52/0 of village Amona, owned by the Petitioner, acquired by the State Government for the construction of approaches to Bridge at Amona Viridi across the Kudnem River at village Amona and Viridi in Bicholim Taluka.

(F) After the claim statement was filed, wherein the Petitioner claimed the land to have market value at the rate of Rs.1000/- per sq.mtr., as against the offer by the LAO in the Award of Rs.45/- per sq.mtr, evidence was led by examining

the Petitioner who produced in his evidence three Sale Deeds dated 29.11.1996 and 28.02.1994 and 13.08.1992 and a Valuation Report of Mr. Ravindra Tamba dated 27.04.2007. The Petitioner subsequently made an application for placing documents on record on 30.10.2015.

(G) In the said proceedings, the Petitioner, after conclusion of the evidence of first witness of the Petitioner (AW-1) a second witness, the Valuer, Mr. R Vijayakrishna was examined as AW-2. In his deposition, AW-2 makes reference to a Sale Deed dated 22.04.2004 in respect of an area under Survey No.60/0 (one of the acquired areas falls in this survey no.), registered with the Sub-Registrar of Bicholim, under Registration No. 407 at pages 133 to 142 of Book I, Volume 363, executed between one Vishnu Govekar and one Mukund Gawas. This Sale Deed had not been relied upon by the Petitioner when leading his evidence.

(H) During the cross-examination of AW-2, the Petitioner filed an application for production of additional documents on 21.11.2024, seeking leave to produce the said Deed of Sale dated 22.04.2004, which was discussed at paragraph 10 of the Affidavit-in-Evidence dated 08.10.2024 filed by AW-2 and in his examination conducted on 25.11.2024.

(I) In the said application, the Petitioner claimed that it was only when the witness AW-2 discussed the said Deed of Sale dated 22.04.2004, that the same came to the knowledge of the Petitioner and that they had no notice or knowledge of the

same at the time of filing the List of Documents on 30.10.2015 in the Reference proceedings, and that pursuant to the said Deed of Sale being brought to their knowledge, they applied for a certified copy of the same on 23.10.2024 and obtained the copy of the same on 24.10.2024. The Petitioner further contended that the said document is relevant to effectively prove their claim for enhanced compensation, as the Deed of Sale pertains to a portion of Survey No. 60/0, which is subject matter of the present reference.

- (J) The Respondent filed a reply to the Application for production of additional documents on 10.12.2024, objecting to the production of the Deed of Sale dated 22.04.2004 on the ground that the said application was hit by the doctrine of delay and laches and deserved to be dismissed considering that the Petitioner had not established the reason for not having produced the said Deed of Sale at the earliest available opportunity. The Respondent further stated that the said Deed of Sale is not relevant and does not find bearing in the adjudication of the reference before the District Court.
- (K) The District Court, vide the impugned order, dismissed the application for production of additional documents citing that the ground taken by the Petitioner in the said Application is insufficient to demonstrate their bonafides and due diligence and that the inordinate delay of 12 years was unexplained.

10. What must be taken note of is that the proceedings before the Court, in this case, were initiated by an application for reference under Section 18 of the Act. A reference under Section 18 is required to only record that the Applicant has not accepted the offer of compensation made in the Award, and does not require the Applicant to state in any detail, his own demand of what should be the market value of the acquired land. In *Shri Ambya Kalya Mhatre (d) through legal heirs & Ors. v. The State of Maharashtra*, reported in (2011) 9 SCC 325, the Supreme Court whilst considering the question as to whether the District Court was empowered to allow an application for amendment of the Reference Application, to incorporate a higher market value in the application, the following observations were made:

“13. The assumption made by the High Court that when a reference is sought objecting to the amount of compensation, the claim for increase will have to be frozen with reference to the amount claimed in the application under section 18 of the Act and therefore the quantum of the claim cannot subsequently be revised or increased is misconceived. Similarly, the assumption that if the claim for increase in an application for reference (relating to an acquisition involving a property consisting of land, building and trees), was only in regard to the compensation for the land, the land owner cannot thereafter make a grievance seeking increase in regard to the building or trees in the pleadings before the Reference Court and that in such a case, the Reference Court gets the jurisdiction to determine only the market value in regard to the land and not in regard to the building and trees, is also not

correct. Section 18 does not require a land owner objecting to the amount of compensation, to make a claim for any specific amount as compensation, nor does it require him to state whether the increase in compensation is sought only in regard to the land, or land and building, or land, building and trees. A land owner can seek reference to civil court, with reference to any one or more of the four types of objections permissible under section 18 of the Act, with reference to the award. His objection can either be in regard to the measurement of the acquired land or in regard to the compensation offered by the Collector or in regard to persons to whom it is shown as payable or the apportionment of compensation among several claimants. Once the land owner states that he has objection to the amount of compensation, and seeks reference to the civil court, the entire issue of compensation is open before the Reference Court. Once the claimant satisfies the Reference Court that the compensation awarded by the Land Acquisition Officer is inadequate, the Reference Court proceeds to determine the compensation, with reference to the principles in section 23 of the Act. As the Act does not require the person aggrieved/landowner to specify the amount of compensation sought, when objecting to the amount of compensation and seeking a reference, mentioning of the amount of compensation sought is optional. As there is no obligation to specify the amount in the application for reference, it can be specified in the claim statement filed before the Reference Court. The period of limitation in section 18 of the Act has nothing to do with specifying the amount of compensation claimed. It therefore follows that if the reference is in

regard to objection to the amount of compensation, the Reference Court can permit any application for amendment of the claim relating to compensation.

16. A land owner, particularly a rural agriculturist, when he loses the land may not know the exact value of his land as on the date of the notification under section 4(1) of the Act. When he seeks reference he may be dissatisfied with the quantum of compensation but may not really know the actual market value. Many a time there may not be comparable sales, and even the courts face difficulty in assessing the compensation. There is no reason why a land owner who has lost his land, should not get the real market value of the land and should be restricted by technicalities to some provisional amount he had indicated while seeking the reference. As noticed above, the Act does not require him to specify the quantum and all that he is required to say is that he is not satisfied with the compensation awarded and specify generally the grounds of objection to the award. Under the scheme of the Act, it is for the court to determine the market value. The compensation depends upon the market value established by evidence and does not depend upon what the land owner thinks is the value of his land. If he has an exaggerated notion of the value of the land, he is not going to get such amount, but is going to get the actual market value. Similarly if the land owner is under an erroneous low opinion about the market value of his land and out of ignorance claims lesser amount, that cannot be held against him to award an amount which is lesser than the market value. When the Act does not require the land owner to specify the amount of compensation, but he voluntarily mentions some amounts, and subsequently, if

the market value is found to be more than what was claimed, the land owner should get the actual market value. We fail to see why the land owner should get an amount less than the market value, as compensation. Consequently, it follows that if the land owner seeks amendment of his claim, he should be permitted to amend the claim as and when he comes to know about the true market value. When the Act is silent in regard to these matters, to impose any condition to the detriment of an innocent and ignorant land owner who has lost his land, would be wholly unjust.

18. It is relevant to notice the definition of land in section 3(a) of the Act. It provides that the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth. Therefore when the Act refers to acquisition of 'land', the reference is not only to land but also to land, building, trees and anything attached to the earth. In the absence of any restriction in section 18 of the Act, and the respective roles assigned by the Act to the Land Acquisition Collector and the Reference Court in the context of making a reference and determining the compensation, we are of the view that once the reference is made in regard to amount of compensation, the Reference Court will have complete jurisdiction to decide the compensation for the land, buildings and trees and other appurtenances. The Reference Court will also have the power to entertain any application for increasing the compensation under whatever head. The fact that the landowner had sought increase only in regard to the land in the application for reference, will not come in the way of the landowner seeking increase even in regard to trees or structures, before the Reference Court.

20. We therefore hold that the time limit under section 18 of the Act is only for seeking the reference by raising the objection to the amount of compensation or any of the other three objections. The land owner or persons aggrieved will have to give only the nature of objection to the award, that is whether it is with reference to measurement or compensation or person to whom it is payable or apportionment, and briefly mention the grounds in support of it. Though the land owner can give the details of his claim and quantum, he is not bound to do so. When the reference is made, he can give the particulars of the claim for compensation or additional particulars or even increase the claim.” (emphasis supplied). (Emphasis Supplied)

11. In a slightly different context, the Supreme Court, in ***Khazan Singh*** (supra), whilst deciding whether a District Court can dismiss a reference made by the Collector under Section 18 of the Act, for default of the Claimant or for his not leading any evidence or participate in the inquiry before the Court, the following observations were made therein.:

“ 6. Section 18 of the Act empowers a person interested in the land to move by a written application to the Collector requiring that the matter be referred for determination of the court, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. If the application for reference is in order the Collector is bound to make a reference of it to the court. Section 20 of the Act enjoins on the court to "proceed to determine the objection".

The court shall after holding such inquiry as may be necessary pass an award. Section 26 of the Act reads thus:

"26. Form of Awards. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2 clause (2) and Section 2 clause (9), respectively, of the Code of Civil Procedure, 1908."

7. The provisions above subsumed would thus make it clear that the civil court has to pass an award in answer to the reference made by the Collector under Section 18 of the Act. If any party to whom notice has been served by the civil court did not participate in the inquiry it would only be at his risk because an award would be passed perhaps to the detriment of the party concerned. But non-participation of any party would not confer jurisdiction a on the civil court to dismiss the reference for default

8. It appears that various High Courts have taken the aforesaid view in a number of decisions: Abdul Karim v. State of M.P., Bhadar Munda v. Dhuchua Oraon, Shyam Shankar Sahai v. State of Bihar, Joseph v. Govt. of Kerala and Jogi Sahu v. Collectors.

12. In Joseph v. Govt. of Kerala Paripoornan, J. (as he then was) speaking for a Division Bench has made reference to two earlier decisions of Single Judges, one by the same High Court

and the other by the Karnataka High Court which held the same view.

13. In Jogi Sahu v. Collectors Pasayat, J. (as he then was) further held that an application for restoration of the reference can be entertained under Section 151 of the Code albeit the same was filed quoting Order 9 Rule 9 of the Code.

11. In the result, we allow this appeal and set aside the order passed by the Additional District Court on 29-9-1997 by which the reference was dismissed for default. The said District Court will now proceed to answer the reference in accordance with the law and pass award as envisaged in Section 26 of the Act. Appeal is disposed of accordingly. (Emphasis Supplied)

12. On the same subject matter, the Delhi High Court in ***R.P. Conduit*** (supra), has taken a somewhat similar view, holding that where a reference is made by a Collector under Section 18, it is the statutory duty of the Court to adjudicate upon the reference irrespective of the appearances of the parties or evidence led by them. The relevant portions of the judgment are quoted below:

“ 5. Another argument against the applicability of Order IX to a proceeding in a Court under Section 18 of the Act, which was made as follows: The references under Section 18 is made by the Collector. It is, therefore, the statutory duty of the Court under Section 18 to adjudicate upon the reference. Such a reference need not be pursued by a party. The non-appearance of a party should not, therefore, result in the dismissal of such a reference. In our view, this proposition is too broadly stated. We may classify references into two categories Firstly, there are references made by statutory authorities or Court to a superior court to

obtain the latter's opinion on a question of law. It is this reference which is truly made in pursuance of a statutory duty. It has also to be answered by way of a statutory duty. It is not necessary for any party to pursue such a reference, It is true that parties who are Interested in pursuing or opposing the reference would be noticed and would be heard by the Court before giving its opinion. But, this is merely with a view to render assistance to the Court. Even if the parties refuse to give such an assistance, the Court would have to consider the question of law and give its opinion. No question of the non-appearance of a party and dismissal of a reference for default can arise in such a case. Instances of such reference may be found in the various taxation laws, such as Income-tax Act and the Sales-tax Act.”

13. The following principles would have to be followed whilst deciding a Reference made by the Collector to a Court under Section 18 of the Act, at the behest of an application under Sub-Section 1 of Section 18 of the Act:

- a. When a reference under Section 18 at the behest of the Collector is made to a Court, it is the statutory duty of the Court to answer the Reference and determine the market value of the land, irrespective of the appearance of the parties; the Court may take into account the evidence led by the parties and may also conduct such inquiry or take such further evidence that may assist it in arriving at the market value of the land.
- b. The interested parties may give their evidence to assist the Court in giving its opinion as to what is the fair market value of the land, and this will never preclude the Court from granting compensation or fixing market value of the land higher than the

one asked for by the Applicant in its claim statement or its application for making a Reference under Section 18 of the Act; the Court is bound to answer the Reference irrespective of the claim or even if there is no specific claim made to a market value by a party.

- c. The Court cannot dismiss a Reference made under Section 18 for non-participation of a party, but even in the absence of the party at whose behest the Reference has been made, it must answer the Reference. The Court is not sitting in appeal over the Award, since the Award is only an offer, of what, in the opinion of the Collector, is the market price of the acquired land.

14. It is in the background of these principles, that the District Court must exercise its jurisdiction under Section 18 of the Act, in answering the Reference and giving its opinion as to what is the correct market value of the acquired land. Its powers are not fettered by procedure, and it is empowered to call for all such documents or information, during the course of the inquiry, to assist it at arriving at the fair market value of the land; Section 23 of the Act sets out the various matters to be considered by the Court, in determining the compensation. It is in this background that the provisions of Section 53 will have to be applied and understood in the context of the applicability of the provisions of the CPC in the Reference proceedings before the Court.

15. In a Reference under Section 18, the Court being required to determine the market value, the Applicant does not file pleadings before the Reference Court, which could be strictly construed to be those under Order VI CPC, which is a plaint or a written statement. The amended CPC would require documents relied upon with the pleadings to be listed and annexed to the pleadings. Order VII CPC requires all documents relied upon with the pleadings to be produced at or before the trial commences i.e. after issues are framed but before evidence is led by a party.

16. In the present case, though issues have been framed, there are obviously no pleadings in *stricto sensu* of the CPC before the District Court. When the Applicant led evidence, he has produced in evidence all the sale instances on which he relied upon, and has also produced a report dated 27.04.2007 of his Valuer.

17. Thereafter, during the course of the recording of the examination-in-Chief of AW-2, the said Valuer, it was realised by the Applicant that the Valuer had referred to a Deed of Sale dated 22.04.2004 which pertained to plot No.10 forming part of the very survey holding from which the land was acquired (Survey No.60/0). According to the affidavit-in-evidence of the Valuer, the sale instance is contemporaneous with the notification under Section 4 of the Act and the land under that Sale Deed is similar in nature to the acquired land. The Sale Deed, as held in the impugned order, is a public document (though a private

Deed between the parties, but registered before the Sub-Registrar). Clearly therefore, the contents of this Deed would be relevant to and assist the Court in coming to correct market value of the acquired land. The production of the Deed could not be rejected outright.

18. This brings me to the question of whether a sufficient case has been made out by the Petitioner that notwithstanding due diligence, the document sought to be produced, could have been produced at an earlier stage. This question would obviously have to be viewed, considering the extent of provisions of Order VII Rule 14, Order XIII Rule 1 and provisions of Section 53 of the Land Acquisition Act. Section 53 of the Land Acquisition Act provides that the provisions of CPC shall apply to the proceedings before the court, under the Act, so far as they may be consistent with anything contained in the Act. What this obviously means is that the applicability of provisions of CPC, which are in some way inconsistent and do not fit into the scheme of proceedings before the Court in a Reference made under Section 18 of the Act, would have to be read in context.

19. There is no plaint or written statement filed by the parties in a Reference made to the Court under Section 18, and in that sense, the provisions with regard to production of all documents along with the pleadings as prescribed in the CPC under Order VII (Plaint), Order VIII (written statement) and Order XIII would not be construed to be applied very strictly, as in a suit. However, the principles underlying these provisions, which are, that the contesting side would require to be

given due notice of all evidence that the applicant desires to rely upon to enable it to cross-examine effectively, and that the parties are not caught by surprise and whether an attempt being made to delay to proceedings, must be considered. Thus, due diligence would have to be considered, but in context and applied in the manner stated above.

20. Another relevant factor that would have to be considered if a document is sought to be relied upon after evidence of the Applicant or the Respondent commences, is whether any document or other evidence sought to be produced, which was not relied upon at the stage prior to commencement of the trial, is the relevance of the document, and how it would assist the Court in answering the reference effectively. Ultimately, the Court is enjoined to arrive at a fair market value of the acquired land and to answer the reference, and in that context, it may also apply the provisions of Order XI Rule 14 CPC, which empowers it, even on its own motion to direct production of such relevant document and to deal with it in a manner it finds to be just.

21. In the present case, the relevance of the document is clearly stated in paragraph 3 thereof, where it is averred that the said Deed of Sale sought to be produced relates to the same survey holding as the one from which the land was acquired. In paragraph 2 of the Application, it is stated that the contents of the Deed of Sale came to the knowledge of the Petitioner on applying for its certified copy and receiving the same on 25.10.2024. The application also states that the applicant had no notice or knowledge of the said Deed whilst filing its list of

documents, and hence could not produce it earlier. Paragraph 4 of the application also states that the document was referred to in paragraph 10 of the Affidavit-in-evidence dated 08.10.2024 of AW-2, an Expert Witness sought to be examined; this appears to be the source of knowledge of the document, though it is true that it is not elaborately pleaded so in the application.

A reading of the application for relying upon these documents as a whole, does make out a case that despite due diligence, the applicant had no earlier knowledge of these documents, the contents of which came to its knowledge only after obtaining a certified copy on 25.10.2024, with the application being filed on 21.11.2024. this is also to be looked at in the context of the observations made by me above, that the document is undoubtedly relevant, and would assist the Court in answering the reference made to it under Section 18 of the Act, and to determine its true market value.

22. Reliance was placed by the Respondents on a judgement of a single judge of the Patna High Court in ***Genai Rai*** (supra). That was a case where an amendment was sought of the application for reference under section 18 before the reference court, which came to be rejected, holding that the provisions of Order IX, CPC would apply even to an application under section 18. The relevant portion of the judgement are quoted below:

3. It is true that there is no provision under the Act which provides for amendment of an objection petition giving rise to the reference under S. 18 of the Act. A reference under S. 18 of the

Act, is on the basis of a written application to the Collector to refer the matter for the determination of the Court. It may relate to measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation. The application is also required to set out grounds on which the objection to the award is taken. Section 53 of the Act provides applicability of Civil P.C. to all proceedings under the Act save in so far as they may be inconsistent with anything contained in the Act. According to the Court below, the claimant cannot be treated either as a plaintiff or a defendant in a proceeding under S. 18 of the Act. Section 141, Civil P.C. envisages the procedure provided in the Civil P.C. with respect to suits shall be followed as far as it can be made applicable in all proceedings in any Court of civil jurisdiction. The proceeding under S. 18 of the Act is a civil proceeding. Under the explanation the expression 'proceeding' includes even a proceeding under O. IX of the Code. There is no need of any plaint being filed in a proceeding under O. IX. A proceeding under O. IX is initiated by filing of an application. A reference under the Act is also initiated by filing of an application setting out the grounds for the relief sought for from the Civil Court. I am, therefore, of the opinion, that merely under S. 18 of the Act, the claimant can be refused the relief of and because no plaint is required to be filed for initiating a proceeding amendment of the application for reference which is an application initiating a civil proceeding under the Act.

3A. The amendment sought for is for substituting Rs. 1,00,000/- per acre in place of Rs. 50,000/- per acre. It is stated that the wrong figure was given due to the mistake of the scribe. Contrary to S. 9 of the Act, S. 18 does not in express terms require the claimant to state in his petition of reference what specific amount he claims as compensation. Section 25 provides that the Court cannot award anything in excess of the amount which the

claimant had mentioned in his statement pursuant to a notice under S. 9 of the Act. It is, therefore, manifest that a reference petition under S. 18. of the Act objecting to the amount of compensation awarded by he Collector would be quite in order even if the claimant does not value his claim in his reference petition at any amount (See AIR 1945 Cal 312 Province of Bengal v. P.L. Nun). This is one aspect of the matter. The constraints which apply to an amendment of the plaint, in my opinion, also applied to the amendment of the application of a reference. Ordinarily it would not be allowed if the amendment changes the nature of the claim but, where the nature of the claim remains unaltered, do not see any reason why the amendment can be refused. In the case of Zameer Ahmad v. State of U.P., AIR 1981 All 92, it was held that the Court below improperly refused to allow the amendment, as a claimant cannot be prohibited from amending the objection led under S. 18(1) of the Act. In the case of R.P. Conduit Manufacturing Co. v. Union of India, ILR (1978) 1 Delhi 513, the Court applied the provisions of O. 6, R. 17 to a proceeding under the Act. The same view seems to have been taken by a Division Bench of the Calcutta High Court in the case of Province of Bengal v. P.L. Nun (supra) where it was held that the Court hearing a reference under S. 18 of the Act has the power to allow the reference petition to be amended, subject to the limitation that it cannot allow an amendment which would have the effect of introducing a new matter which had not been referred to it for decision by the Collector under S. 18. The said case related to an amendment with respect to the amount of compensation only.

4. Learned counsel appearing for the State relied upon B. Munda v. D. Oraon, AIR 1970 Pat 209 in support of his contention that, in spite of S. 53 of the Act, a Division Bench of this Court did not apply O. 22, Civil P.C. to a proceeding under S. 18 or S. 30. In my opinion, the said case is distinguished on its very face as

their Lordships observed: "The application of O. 22 is inconsistent with the very nature and scope of the proceedings under Ss. 18 and 30". The Court applied O. 1, R. 10, C.P.C. as in their Lordships' view the said provision was not inconsistent to a reference under S. 30 of the Act. A reference was also made by the learned counsel to another Division Bench decision in the case of S.S. Sahai v. State, AIR 1974 Pat 176 where it was held that Court can recall an order dismissing a reference for default under its inherent Jurisdiction. It was held that a land acquisition reference case cannot be dismissed in default for non-appearance of the claimant. Order 9, R. 8 read with S. 151 of the Code or S. 53 of the Act will not apply to such a case. The said case is also distinguishable. Similarly, the reliance of the learned counsel appearing for the State in the case of Secy of State v Subramania, AIR 1930 Mad 576 is misplaced. In that case it was held that it would not be open to a Claimant to make out a fresh case, whether by way of supplementary claims to compensation or otherwise. I am also of the opinion that a party cannot be allowed to change the nature of his claim by way of an amendment petition. This case, therefore, also is not decisive of the question before me.

5. I am of the firm view that the Court below failed to exercise Jurisdiction in refusing amendment of the reference petition on the ground of lack of power under the Act. As there is no provision in the Land Acquisition Act which is inconsistent with the provisions of O. 6, R. 17, the Court hearing a reference under S. 18 has the power to allow the reference petition to be amended, subject to the constraints of amendment of a plaint and/or a written statement, i.e. law of limitation, changing the nature of the claim etc. I respectfully follow the law laid down by Calcutta, Delhi and Allahabad High Courts."

23. What was considered by the Patna High Court was an amendment to the quantum of compensation sought in the reference application, and what was held, applying the analogy that an application for reference before the Collector in terms of section 18 would constitute a pleading, Order IX CPC was made applicable. This judgement, runs diametrically opposed to what the Supreme Court has held in *Ambya Kalya Mhatre (supra)*. *The portions of the judgement rendered in Ambya Kalya Mhatre (supra)* have been quoted in paragraph 7 above, which hold that the application can be amended at any time, as the Court is required to, on its own, arrive at the market value of the acquired land, and is not bound by the quantum stated in the reference application.

I must, at this stage record my dissenting view to the view taken by the Patna High Court in *Genai Rai (supra)* for another reason, which is that an application under section 18 cannot be equated to a plaint or a pleading as, to a party, it is only meant to record the fact that the applicant does not accept the amount offered by way of award and seeks to have the value of the land determined by a Court. Such an application could never partake of a pleading as defined in the CPC, and the provisions of Order VII Rule 11 which require documents to be produced along with the plaint could not be applied in all its rigor to a reference under section 18.

24. *Special Land Acquisition Officer, Bombay (supra)*, was a case where the Bombay High Court was considering whether the provisions of Order XXII of bringing Legal Representatives on record was

applicable in a Reference under section 18 of the Act. It is in that context that the said judgment was rendered and would not be of much assistance to the Respondents, considering the point raised in the present matter is quite different.

25. In ***Chitrakala*** (supra), the Supreme Court referred to Rule 2 of Order XIII of CPC, requiring good cause to be shown for producing additional documents, which stood deleted by the 1999 Amendment to the CPC. Nevertheless, the Supreme Court has interpreted what is “good cause” to be shown and how the Court is required to consider whether the document assists the Court in resolving the controversy in the proceedings. The following paragraph is relevant for this case:

“9. It is pertinent to note that Rule 2 of Order 13 requiring good cause to be shown has now been deleted and by amendment sub-rule (3) is added to Rule 14 which states that leave of the Court has to be obtained for production of such documents. But even accepting that while persuading the Court to grant leave, a party has to show cause why the documents could not be produced earlier, not a very strict, restricted and pedantic view can be taken of this provision. Ultimately the Court will have to ensure that all documents which assist it to resolve the controversy before it in an efficient manner are available for its perusal. Unless the Court comes to a conclusion that the facts are so gross that the only inference that can be drawn from the conduct of the party is that the documents which are sought to be produced are manufactured, the Court should not generally deny leave to produce documents because ultimately it is always open to the other side to cross-examine the party who produces the documents to establish that the said documents are not relevant or that the

case based on the said documents is not true. In my opinion in this case, at this stage, it is not possible to come to a conclusion that the documents at serial Nos. (f) and (j) are manufactured. However, that does not preclude the defendant, if he so desires, to cross-examine the plaintiff and persuade the Court to hold so. In the nature of things, no final opinion can be expressed by this Court on this aspect of the matter, at this stage.”

(Emphasis Supplied)

26. ***Chitrakala*** (supra), was referred to in a judgment of this Court in ***Natalin Araujo Fernandes*** (supra) for the same purpose, and the relevant paragraphs are quoted below:

“9. In the Judgment of this Court relied upon by the learned Counsel appearing for the petitioners in the case of Smt. Chitrakala Fal Dessai v. Shri Balu Marathe alias Mane s/o. Jyotiba Marathe [supra], it has been observed at para 9 thus:

"It is pertinent to note that Rule 2 of Order 13 requiring good cause to be shown has now been deleted and by amendment sub-rule (3) is added to Order 14 which states that leave of the Court has to be obtained for production of such documents. But even accepting that while persuading the Court to grant leave, a party has to show cause why the documents could not be produced earlier, not a very strict, restricted and pedantic documents which assist it to resolve the controversy before it in an efficient manner are available for its perusal. Unless the Court comes to a conclusion that the facts are so gross that the only inference that can be drawn from the conduct of the party is that the documents which are sought to be produced are manufactured, the Court should not generally deny leave to produce documents because ultimately it is always open to the other side to cross examine the party who produces the

documents to establish that the said documents are not relevant or that the case based on the said documents is not true. In my opinion in this case, at this stage, it is not possible to come to a conclusion that the documents at serial Nos. (f) and (j) are manufactured. However, that does not preclude the defendant, if he so desires, to cross-examine the plaintiff and persuade the Court to hold so. In the nature of things, no final opinion can be expressed by this Court on this aspect of the matter, at this stage."

10. Considering that the said documents are public documents which appear prima facie in respect of the property claimed by the petitioners, I find that the findings of the learned Judge that the documents are manufactured, cannot be accepted. In view of the ratio laid down in the said Judgment in the case of Smt. Chitrakala Fal Dessai v. Shri Balu Marathe alias Mane s/o. Jyotiba Marathe (supra), I find that the petitioners are entitled for leave to produce the said documents subject to proving the contents thereof in accordance with law. Considering the delay in producing the said document, the petitioners are liable to pay costs which are quantified at Rs. 10,000/- to the respondents."

27. Considering the principles laid down in the aforementioned judgment and for the reasons aforesaid, the present petition will have to be allowed. I therefore pass the following :

ORDER

1. The impugned order dated 10.12.2024 is quashed and set aside and the application at Exhibit D-57 before the trial Court is allowed.

The Petitioner is permitted to produce Deed of Sale dated 22.04.2004 in evidence.

2. Rule is made absolute in terms of prayer clause (a) of the petition.
3. Petition stands disposed of accordingly.

VALMIKI MENEZES, J.