



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12134 OF 2025
IN
FIRST APPEAL NO.1091 OF 2024

GENU JANU KUDALE
THR. POA DINKAR JANU KUDALE ..APPLICANT
VS.
THE SPECIAL LAND ACQUISITION
OFFICER NO.6, PUNE & ORS. ..RESPONDENTS

Ms. Amrita Kharkar i/b. Mr. P. H. Potnis for applicant.
Mr. A. R. Patil, Addl. G.P for respondent no.3 – State.

CORAM : RAJESH S. PATIL, J.

DATE : 8 OCTOBER 2025.

PC. :

**INTERIM APPLICATION NO. 12134 OF 2025 IN FIRST APPEAL
NO.1091 OF 2024 :-**

1. This application is filed for seeking amendment to the First Appeal as regards the enhancement of compensation and the Court fee to be payable on the same.

2. The Supreme Court in the case of *Ambya Kalya Mhatre (Dead) through LRs. and others Versus State of Maharashtra*¹ has held that amendment can be carried out as regards the enhancement of compensation at any stage. Paragraph Nos.12, 22, 26 and 28 read as under:-

¹ (2011)9 SCC 325

“12. During the pendency of the special leave petition, the issue whether the Reference Court can permit a claimant to amend his claim so as to increase the compensation claimed, came up for consideration before a Full Court of the Bombay High Court in State of Maharashtra v. Sitaram Narayan Patil. The Full Court overruled the impugned judgment dated 11-11-2008 which is reported in State of Maharashtra v. Ambya Kalya Mhatre and held that a claimant whose land is acquired, can be allowed to amend his claim application so as to enhance the compensation claimed in an application for reference under Section 18 of the Act can be allowed before the Reference Court as well as at the stage of an appeal in the High Court arising out of the decision of the Reference Court.

22. As the Act does not require the person aggrieved/landowner 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.

26. When the reference is received, the court causes notice specifying the date of hearing for determining the objection of the landowner/person aggrieved (Section 20 of the Act). The Reference Court has to call upon the claimants to file their statement of claim and call upon the Collector to file his objections to the claim statement and then proceed with the matter. Where the application under Section 18 contains the necessary particulars, the Reference Court may treat the application for reference under Section 18 and the Collector's statement under Section 19 of the Act as the pleadings. The landowner is entitled to specify the amounts claimed by him as compensation and the heads of compensation for the first time in such claim statement before the Reference Court. He can also file an application amending the claim. What is not permitted after the expiry of the period of limitation specified in Section 18 of the Act, is changing the nature of objections from one category to another. If the reference had been sought with reference to objection to amount of compensation, the landowner cannot after the period of limitation, seek amendment to change the claim as objection to measurement or objection to apportionment.

28. The compensation depends upon the market value established by evidence and does not depend upon what the landowner 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 landowner 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 landowner 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 landowner should get the actual market value. We fail to see why the landowner should get an amount less than the market value, as compensation. Consequently, it follows that if the landowner 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 landowner who has lost his land would be wholly unjust.

(Emphasis supplied)

3. In view of the law as laid down by the Supreme Court in the above referred judgment and considering the averments made in the present application, I am convinced that the application requires to be allowed.

4. The application is allowed in terms of prayer clauses (A) and (B).

5. Amendment to be carried out within a period of four weeks from today.

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6. Heard learned counsel for both sides.

7. Admit.

8. The appellant to file private paper-book within six months from today. A copy of the same to be served on other side.

9. Soft copy of R & P be sent by the trial Court to the High Court

within 4 weeks from today. Original R & P should be preserved by the trial Court till further orders of this Court. Original R & P to be sent to the High Court when called for.

(Rajesh S. Patil, J.)