IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 24th OF SEPTEMBER, 2026

FIRST APPEAL No. 447 of 2015

SANTOSH
Versus
WATER RESOURCE DEPARTMENT AND OTHERS

Appearance:

Shri Lokesh Arya - Advocate for the appellant.

Shri Anshul Rajpurohit - Government Advocate for the respondents/State.

WITH

FIRST APPEAL No. 480 of 2015

BADRILAL
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Lokesh Arya - Advocate for the appellant.

Shri Anshul Rajpurohit - Government Advocate for the respondents/State.

Heard on : 04.05.2026

Pronounced on : 24.09.2026

JUDGMENT

Considering the fact that these appeals are based on identical set of facts involving the issue of adequacy of compensation pursuant to acquisition of respective land, the same are being heard analogously and being decided by this common order.

2. These appeals have been filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act of 1894') against the award dated 06.02.2015 passed by the IX Additional District Judge, Indore (hereinafter referred to as the 'Reference Court') in Reference Case No. 45/2013 and 44/2013 whereby the reference cases filed by the appellants though allowed in part however, the market value of land was not assessed as demanded by the appellants. Hence, this appeal.

For the sake of convenience, the facts of First Appeal No.447/2015 are being referred to.

3. The State Government intended to acquire land for construction of Ganga Nala Talab Project thus, preliminary notification in terms of Section 4(1) of the Act of 1894 was published in the Gazette of Madhya Pradesh on 10.09.2020 whereafter, notification in terms of Section 6 was also published on 03.12.2010. As the emergency clause was applied thus, without providing any opportunity to file objections, declaration of acquisition of land was made in terms of Section 6 and resultantly, notification in terms of Section 9(3) of the said Act was issued thereby asking the interested persons to lodge their claims against acquisition of their land.

4. The Land Acquisition Officer after receiving claims from the interested persons passed award dated 20.10.2011 whereby the land of several persons including the present appellants was acquired. The Collector determined the market value of the land at the rate of Rs. 6,50,000/- per hectare for irrigated land and Rs. 4,33,333/- per hectare for unirrigated land. Consequently, compensation in the case of Santosh (in F.A.No.

447/2015) was determined at Rs. 92,727/- and in the case of Badrilal (in F.A.No. 480/2015) was determined at Rs. 1,60,728/- treating their land as unirrigated.

5. The appellants being aggrieved filed their individual reference in terms of Section 18 of the Act of 1894 before the Reference Court. The Reference Court after recording evidence and on appreciation of the same concluded that the land of the appellants is unirrigated however, the market value of the land was determined at the rate of Rs. 6,00,000/- per hectare (for unirrigated land). Accordingly, the respondents were directed to recalculate the compensation and pay the same along with statutory interest in terms of Section 23 and 28 of the Act of 1894.

6. The appellant being dissatisfied with the determination of the market value of land as well as its nature in as much as according to the appellant, the land in question is irrigated land, filed the present appeals.

7. Learned counsel for the appellants while arguing on the question of market value of the land has referred to Exhibit P/1, P/2 and P/3 which are sale deeds of the same village i.e. village Kampel. Learned counsel submits that all these sale deeds were prior in time to the date of preliminary notification. There was no valid reason given by the Reference Court for not relying on these sale deeds. He submits that it is a settled position of law that for determining the market value, the sale deed of the highest value has to be taken into consideration. Thus, according to the learned counsel, sale deed Exhibit P/3 should have been taken into consideration and if the Reference Court was of the view that the same is not reliable, then the sale deed as

contained in Exhibit P/1 and P/2 should have been referred. However, the Reference Court has relied upon the sale deed Exhibit D/3 without explaining the reasons for discarding the above sale deeds and relying on the sale deeds placed on record by the respondents. In support of his submissions regarding the market value, the learned counsel for the appellant has placed reliance on the order passed by this Court on 20.02.2026 in ***First Appeal No. 65/2015 (The State of Madhya Pradesh & Ors. vs. Sureshchandra)***.

8. Apart from the above, learned counsel for the appellants submits that the Land Acquisition Officer while determining compensation has considered the guidelines of three years i.e. 2007-08, 2008-09 and 2009-10. He submits that in fact the guidelines of the year 2010-11 should have been considered as the preliminary notification in terms of Section 4(1) of the Act of 1894 was issued only on 10.09.2010.

9. Learned counsel for the appellants further submits that even the nature of land was not considered properly by the Land Acquisition Officer as well as the Reference Court. He submits that Exhibit P/6 is the revenue khasra entries which would show that the land in question was irrigated land. He submits that the said exhibit would demonstrate in two different ways that the acquired land was irrigated. He submits that in column No. 12 the word 'कुआं' (well) is mentioned and in column No. 6 and 16 the area of the land is encircled. He submits that as per the methodology adopted by the Revenue Officers encircling an area depicts its nature that it is an irrigated land. He submits that this fact was proved by the appellant by his own evidence as

PW-1 and the evidence of Narendra Sethi (PW-3) who in para 3 and 4 of his deposition provided details of the land which was acquired and specifically stated that encircling an area would mean that it is an irrigated land. He submits that PW-3 was the Patwari of the revenue department and village Kampel was within his jurisdiction. As such, he was the best witness to depose about the nature of the land. Learned counsel further submits that even the defence witness DW-1 in para 21 of his cross-examination admitted that the revenue record shows that the land in question is irrigated. However, as the means of irrigation is not mentioned thus, the said land was treated as unirrigated.

10. Learned counsel for the appellants further submits that village Kampel is situated adjacent to village Pivday and this Court in respect of village Pivday has passed an order on 29.02.2012 in ***First Appeal No. 130/2012 (State of Madhya Pradesh & Anr. vs. Sawantram)*** in which the rate of acquired land was determined at the rate of Rs. 20,00,000/- per hectare for irrigated land. He thus submits that for adjacent village, the rate so determined should have been adopted for the purposes of present case also for the reason that both the villages are adjacent to each other.

11. Learned counsel further submits that deduction of 20% as has been made by the Land Acquisition Officer and which has been affirmed by the Reference Court should not have permitted for the reason that the land was being acquired for construction of a pond. This Court in ***First Appeal No. 155/2009 (Kachra s/o Lala vs. State of M.P. & Anr.)*** has held that for acquisition of land for construction of pond, deduction of 20% towards

development charges should not be made as there is no question of any such development or any cost.

12. Lastly, the learned counsel for the appellant submits that in any case, the compensation should not have been less than the guideline value which the State itself has determined. However, in the present case, by not considering the relevant guidelines, the market value of the land has been determined lower than the relevant guidelines of the year 2010-11 which were placed on record as Exhibit P/7. In support of his submissions, he has placed reliance on the order of this Court passed in case of ***State of M.P. vs. Surya Kumar, (2010) 2 MPHT 68***. He thus prays for enhancement of compensation accordingly.

13. Per contra, learned counsel for the respondent/State submits that there are two documents of Revenue Department which have been placed on record. He submits that Exhibit P/5 is the possession receipt, Exhibit P/5(c) is the khasra record for the year 2005-06 to 2008-09 and Exhibit P/6(c) is the khasra record of the year 2009-10 to 2012-13. He submits that perusal of these two documents would show that while in Exhibit P/6 कुआं (well) has been mentioned, in P/5 there is no such entry. As regards the reliance placed by the learned counsel for appellant on the order of this Court passed in First Appeal No. 130/2012, he submits that simply by relying on a judgment passed by this Court prayer for enhancement of compensation cannot be made as for relying on a judgment, factual aspects have to be established so as to establish the similarity between the two cases. Moreover, not only the proximity of land has to be established but it has to be pleaded specifically.

However, there is complete absence of any pleading with respect to land acquisition in village Pivday and no evidence at all was led in this behalf by the appellant before the Reference Court.

14. As far as the question of sale deeds are concerned, learned counsel for the State submits that in fact the Reference Court has dealt with this issue in detail and found that all the sale deeds which were placed on record by the appellant pertains to small pieces of land which can be termed as small plots and hence, they are not comparable. Thus, the learned counsel for the respondent/State submits that the Reference Court has correctly passed the award and no interference is warranted.

15. The learned counsel for the appellant, in response, submits that though there is no pleading however, considering the fact that village Pivday is just adjacent to village Kampel where the acquired land is situated, this Court can take notice of the order passed by this Court in the above mentioned first appeal. Apart from this, learned counsel for the appellant by referring to possession receipts (Exhibit P/5) submits that it contains endorsement to the effect that on the land in question, water is logged since 22.07.2009 however, physical possession was taken on 30.11.2011. He thus submits that the appellant is entitled to interest from 22.07.2009 because the land was submerged from that date.

16. Heard learned counsel for the parties. Perused the record.

17. The first and foremost contention of the learned counsel for the appellant is with respect to market value of the land. He has placed heavy reliance on the sale deeds (Exhibit P/1 to P/3) which are dated 29.01.2010,

09.11.2009 and 29.04.2008. The respective area involved in these sale deeds is 0.032 hectare, 0.012 hectare and 0.020 hectare. Now, while considering these sale deeds in juxtaposition to the sale deed Exhibit D/3 it would come to the fore that this sale deed is also of village Kampel for an area of 4.10 hectare which was executed on 21.03.2010. The date of preliminary notification is 10.09.2010 therefore, the sale deed Exhibit D/3 is nearer in terms of date to the preliminary notification and it is for an area of 4.10 hectare whereas the other three sale deeds placed on record by the appellant are for very small plots.

18. Although, the learned counsel for the appellants is correct in saying that even the sale deeds of a smaller area can be considered, however, when they can be and should be considered is the question. The Hon'ble Apex Court has answered this question in the case of ***Ravindra Narayan & Anr. vs. Union of India, 2003 (4) SCC 481*** by holding that where there is no other material it is open to the adjudicating Court to make comparison of the prices paid for small plots of land. As such, in case there is complete absence of any material, then reliance can always be placed on such sale deeds which are for a smaller piece of land. However, in the present case there is no such absence as Exhibit D/3 is not only for a larger area of land but it is also nearest to the date of preliminary notification. As such, the Reference Court has correctly declined to rely upon the sale deeds Exhibit P/1 to P/3 and has correctly relied on the sale deed Exhibit D/3.

19. However, the Reference Court has completely ignored other aspects of the matter i.e. the guidelines of the relevant year. The ambit of

Section 23 of the Act of 1894 provides that the Land Acquisition Officer has to first consider the market value of the land on the date of publication of notification under Section 4 sub-Section (1) of the Act of 1894 and other aspects which are subsequently enumerated in the said Section. In the present case, Section 4(1) notification was issued on 10.09.2010 whereas the Land Acquisition Officer as well as the Reference Court considered the guidelines for the year 2007-08, 2008-09 and 2009-10 by completely ignoring that the relevant period for the purpose of determining the market value will be 01.04.2010 to 31.03.2011. Thus, the guideline of the year 2010-11 was required to be considered and as per the said guideline (Exhibit P/7), the market value of irrigated land in village Kampel was Rs. 10,50,000/- and for unirrigated land was Rs. 7,00,000/-.

20. This Court in case of ***Surya Kumar (supra)*** has considered this aspect and observed as under :

> *"So far as first contention of the appellant that the Reference Court ought not to have affixed the market value as per the order of Collector dated 31-3-2005 is concerned, we considered the contention of appellant and found that the aforesaid guidelines in respect of minimum market value was issued by the Collector under the provisions of M.P.Preparation and Revision of Market Value Guideline Rules, 2000 (hereinafter referred to as 'Rules' for short). From the perusal of aforesaid rules it is apparent that under Rule 4 there is provision for constitution of District Valuation Committee who shall prepare the market value guidelines as per the procedure prescribed under Rule 6. The aforesaid market value is to be affixed as per the provisions envisaged under Section 47-A of the Indian Stamp Act and these rules have been framed under Section 75 of the Indian Stamp Act, 1899. When the State Government on one hand is affixing minimum market value and they charge stamp duty on a document as per the guidelines issued by the Collector, then the State Government cannot deprive its liability for the payment of compensation if the land owner based his claim on the basis of aforesaid guidelines. The aforesaid guidelines were framed as per the Rules of 2000 and if the Reference Court relying on the guidelines assessed the compensation, no fault is found. The Collector being an Authorised Officer of the State has fixed the aforesaid minimum market value and the State is estopped from assailing the impugned award on the ground that the valuation fixed by the Collector as per Annexure P-3 was not*

correct."

20.1 Thus, **in the considered view of this Court, the market value as per the guidelines of 2010-11 (Exhibit P/7) should have been taken to be correct and applicable market value of the acquired land by the Reference Court**.

21. As far as the question of the nature of land is concerned, the Reference Court in paragraph 25 considered this aspect in great detail. It was found that in the khasra entry of 2005-06 in column No. 12 there is a reference to a well however, in the khasra entry of 2008-09 there is no mention of any well. Apart from this, the Court while relying on the evidence of Narendra Seth (DW-3) observed that the encircling of the area of land is not complete. The purport of the statement of said witness was that there is absence of complete encircling thus, it cannot be construed that the land was irrigated. This statement of the said witness was accepted by the Reference Court and thus, the land was held to be unirrigated land. However, while concluding this, the Reference Court has remained completely oblivious of the fact that not only there is encircling of the area in both the khasra entries at Exhibit P/5 and P/6 but this has also been admitted by Patwari of the concerned area when he came to depose as PW-3 who stated in para 4 and 5 about encircling. This has to be seen in the light of submission of M.L.Soni (DW-1) who was the Officer of respondents who stated in para 21 that land of survey no. 2195 was treated as irrigated land according to the revenue records. However, as the mode of irrigation is not mentioned thus, the same was treated as unirrigated. It is thus clear that the

witness of the respondent himself has admitted that the revenue record shows that the land is recorded as irrigated however, due to absence of mode of irrigation, the same is treated as unirrigated. Here it has to be considered that though it is true that burden is on the claimant to establish that he is entitled for higher compensation however, it cannot be said that there is no onus upon the State.

22. The Hon'ble Apex Court considered this aspect in para 29 of the judgment passed in the case of ***Special Land Acquisition Officer vs. Karigowda, (2010) 5 SCC 708*** and has held in para 29 as under :

> *"It is a settled principle of law that, the onus to prove entitlement to receive higher compensation is upon the claimants. In the case of* ***Basant Kumar and Ors. v. Union of India and Ors., (1996) 11 SCC 542****, this Court held that the claimants are expected to lead cogent and proper evidence in support of their claim. Onus primarily is on the claimant, which they can discharge while placing and proving on record sale instances and/or such other evidences as they deem proper, keeping in mind the method of computation for awarding of compensation which they rely upon. In this very case, this Court stated the principles of awarding compensation and placed the matter beyond ambiguity, while also capsulating the factors regulating the discretion of the Court while awarding the compensation. This principle was reiterated by this Court even in the case of* ***Gafar v. Moradabad Development Authority, (2007) 7 SCC 614*** *and the Court held as under:*
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> > *"As held by this Court in various decisions, the burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more. That burden had to be discharged by the claimants and only if the initial burden in that behalf was discharged, the burden shifted to the State to justify the award."*
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> *Thus, the onus being primarily upon the claimants, they are expected to lead evidence to revert the same, if they so desire. In other words, it cannot be said*

that there is no onus whatsoever upon the State in such reference proceedings. The Court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. Every case has to be examined on its own facts and the Courts are expected to scrutinize the evidence led by the parties in such proceedings."

23. It is the State that is the custodian of the documents regarding the revenue, State acquired the land of the appellant. The appellant discharged its burden by leading evidence to show that the land is irrigated, first by Exhibit P/5 and then by Exhibit P/6 and thereafter proving these documents by his own evidence as PW-1 and further corroborating the same by the evidence of Patwari of the area (PW-3) and then even by cross-examining the witness of the respondent (DW-3). However, to controvert this, the respondent led no evidence whatsoever. Thus, in the considered view of this Court, the findings as recorded by the Reference Court in para 25 are mostly presumptive and cast a negative burden upon the appellant to prove a fact which was already demonstrated by cogent evidence whereas the onus should have been shifted upon the respondent/State to rebut the evidence placed on record by the appellant.

24. **As such, it is hereby held that in view of the evidence which is available on record, the land in question was irrigated land.**

25. As far as the reliance placed by the learned counsel for the appellant on the order passed by this Court in ***First Appeal No. 130/2012*** in case of ***Sawantram (supra)*** for considering the market value of the land at Rs. 20,00,000/- per hectare is concerned, in fact, the submission of the learned counsel for the State is correct. In absence of any pleading and any material

whatsoever to establish similarity between two lands, the same cannot be relied upon. As the sale deeds exhibited by the appellant are not found comparable, the ratio of order dated 20.02.2026 passed in ***First Appeal No. 65/2015*** in case of ***Sureshchandra (supra)*** will not apply in the facts of the present case.

26. As far as the issue of interest from the date of submergence of land i.e. 22.07.2009 is concerned, the same cannot be done for the reason that the Hon'ble Apex Court has already decided this issue in its judgment passed in the case of ***Karigowda (supra)*** by referring to the judgment of Larger Bench rendered in the case of ***R.L.Jain, (2004) 4 SCC 79*** and it has been held that interest cannot be granted for the period prior to the date of issuance of notification under Section 4 of the Act of 1894. The Hon'ble Apex Court in the said case observed that the remedy lies elsewhere. The appellant could have claimed damages for such a period. Thus, the prayer for grant of interest from the date of submergence is hereby declined.

27. As far as the question of deduction is concerned, the issue has conclusively been decided by this Court in ***First Appeal No. 155/2009*** where the Court held that deduction of 20% was incorrect for the reason that the acquisition is for submergence of land thus, there is no requirement of any development. Considering the same, **the deduction as made at 20% is hereby set aside**.

28. Resultantly, the appeals stand **allowed in part**. The respondents have to re-calculate the compensation in the case of the appellants by treating the land as irrigated at the market value of land at Rs. 10,50,000/-

(Rupees Ten Lakh Fifty Thousand) per hectare and accordingly the compensation has to be paid after recalculating the same according to the conclusions drawn herein above, along with all other statutory entitlements in terms of the provisions of Section 23 and other relevant provisions of the Land Acquisition Act, 1894.

29. With the aforesaid, the appeals stand allowed to the extent indicated hereinabove and disposed of.

Let a copy of this order be placed in the First Appeal No. 480/2015.

Records of the Court below be sent back.

(PAVAN KUMAR DWIVEDI)
JUDGE

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