

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 363 of 2016

Reserved on: 22.12.2025

Date of decision: 08.01.2026

Khem Raj (deceased) through LRs. & Ors.

.....Appellants

Versus

State of H.P. & Ors.

.....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting? Yes.*

For the appellants:

Mr. B.S. Chauhan, Senior
Advocate with Mr. Sahil and Ms.
Aditi Rana, Advocates.

For the respondents:

Mr. Manoj Chauhan, Additional
Advocate General.

Sushil Kukreja, Judge

The instant appeal has been preferred by the appellants, who were the petitioners before the learned Court below against the award dated 18.06.2016, passed by learned District Judge (Forests), Shimla, H.P., (hereinafter referred to as "the learned Reference Court"), in Reference Petition No. 6-S/4 of 2015/13, whereby reference petition filed by petitioners was allowed and the award of the Land Acquisition Collector was modified to the extent that the market value of the land acquired was assessed as

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Rs. 324.32 per square meters alongwith additional compensation, Solatium, interest etc.

2. The brief facts of the case are that land of the petitioners, comprised in Khasra No. 451, measuring 0-08-57 hectares, was acquired by respondent No. 1 for construction of Shananghati-Dargi-Machryana link road, vide Notification dated 30.12.2009, under Section 4 of the Land Acquisition Act (for short "the Act"). After the completion of acquisition proceedings, the Collector passed the award on 16.02.2012, vide award No. 67/2012.

3. The petitioners/claimants, feeling aggrieved with the award of the Land Acquisition Collector preferred a petition under Section 18 of the Act before the learned Reference Court for enhancement of the compensation amount, which was allowed and award of the Collector was modified to the extent that market value of the land acquired was assessed as Rs. 324.32 per square meter and the petitioners were also held entitled for the following reliefs:-

"(a) Additional compensation at the rate of 12% per annum on the market value of the acquired land w.e.f. 30.12.2009, i.e. date of notification under Section 4 of the Act till 16.02.2012, i.e. the date of award.

(b) Solatium @ 30% of the market value of the acquired

land.

(c) Interest @ 9% per annum on enhanced amount of compensation from the date of taking possession of the land till the expiry of the period of the land of one year therefrom and thereafter 15% per annum till the date of payment/deposit of the amount.

(d) Additional interest @ 15% per annum on the amount awarded by the Land Acquisition Collector from January, 1999 the date of dispossession upto 30.12.2009 the date of notification under Section 4 of the Act."

4. Learned Senior Counsel for the appellants contended that the reference Court has gravely erred both under law and facts, as the claimants had claimed the compensation of land as per Award, dated 04.07.2013 (Ext. PW-1/D), which has been passed in reference petition No. 7-S of 2012/06, but the learned reference Court had ignored the relevant piece of evidence, i.e. Ext. PW-1/D. He further contended that in the present case notification under Section 4 of the Act was issued on 30.12.2009, whereas, notification in award, Ext. PW-1/D was issued on 02.12.2002, as such, determination of market value of acquired land in the instant case has to be enhanced @ 10% per year in view of the settled law and he prayed that impugned award deserves to be enhanced/modified.

5. Conversely, learned Additional Advocate General for the respondent/State contended that the learned Reference Court had rightly held the appellants entitled for enhanced compensation, hence, the awarded amount of compensation is just and fair and necessitates no interference and prayed for dismissal of the instant appeal.

6. I have heard the learned Senior Counsel for the appellants, learned Additional Advocate General for the appellant/State and also carefully examined the records.

7. The law mandates that when the State compulsorily deprives a person of his land for public purpose, by invoking the provisions of the Land Acquisition Act, he must be paid compensation in accordance with law, i.e., he must be paid the true market value of the acquired land. It has been held in a catena of decisions by the Hon'ble Apex Court that the market value, as postulated in Section 23(1) of the Act, is deemed to be the just and fair compensation for the acquired land and that the words "market value" would be the price of the land prevailing on the date of publication of the preliminary notification under Section 4(1) of the Act. The acid test for determining the market value of the land is the

price, which a willing vendor might reasonably expect to obtain from a willing purchaser. In determining the market value, the factors enumerated in Section 23 are to be taken into consideration. However, there cannot be any mathematical accuracy in ascertaining the amount of compensation payable.

8. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs and others vs. State of Gujarat, (1989) 4 SCC 250***, the Hon'ble Supreme Court has held that the market value of a property for the purpose of Section 23 of the Act is the price at which the property changes hands from a willing seller to a willing purchaser, but not too an anxious a buyer, dealing at arms length. The relevant portion of the aforesaid judgment reads as under:

"4.....The market value of a piece of property for purpose of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but not too anxious a buyer, dealing at arms length. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value."

9. In ***Atma Singh & others vs. State of Haryana & another, (2008) 2 SCC 568***, the Hon'ble Supreme Court held that the market value is the price that a willing purchaser

would pay to a willing seller for the property having due regard to its existing conditions with all its existing advantages and its potential possibilities when led out in most advantageous manner, excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value, disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. The relevant portion of the aforesaid judgment reads as under:-

“4.....The expression “market value” has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which

the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor façade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value.

5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration."

10. In the instant case, in order to prove the market value of the land in question, petitioner Khem Raj himself appeared in the witness box as PW-1 and tendered in evidence his affidavit, Ext. PW-1/A, wherein, he reiterated the averments made in the reference petition. He also placed on record copy of award, Ext. PW-1/B, copy of statement of award, Ext. PW-1/C, Khakha Dasti, mark 'A', certificate issued by Patwari, mark 'B' and copy of award

passed by learned District Judge (Forests), Ext. PW-1/D.

11. PW-2, Chuni Lal, deposed that land in question was acquired for the construction of road in the year 1998 and the petitioners used to cultivate the said land. He further deposed that Village Judlu falls within the Patwar Circle Macharyana and the distance between Macharyana and Panohi is 10-15 Kms and Village Macharyana is at a distance of 3-4 Kms from Village Judlu. PW-3, Brij Lal, Patwari, has placed on record Khakha Dasti, Ext. PW-3/A .

12. To rebut the evidence led by the petitioners, respondents have examined Hem Chand, Junior Engineer, who appeared in the witness box as RW-1 and deposed that construction of Shananghati-Dargi-Macharyana link road was started in the year 1995-96 on the demand of general public, as there was no road available. The acquired land of the petitioners was situated at a distance of 35-36 Kms from Sunni and nature of the land was Ghasni. He further deposed that no sale deed was executed in this revenue chak and adequate compensation was awarded to the petitioners. RW-2, Brij Lal has also supported the version of RW-1.

13. Admittedly, no sale transaction had taken place in Mauja Macharyana one year prior to the date of publication of the Notification under Section 4 of the Act. The reference Court based its award on the basis of one year average market value of Village Panohi, which is very far away and falls in another Patwar Circle. The perusal of the impugned award reveals that learned Reference Court had ignored the award dated 04.07.2013, Ext. PW-1/D, passed by learned District Judge (Forests), Shimla, on the ground that this award was passed while placing reliance upon sale deed, Ext. PW-1/A considered it to be bonafide transaction, adjacent to the land acquired and possessed, but, in the present case, the petitioners had not placed on record any sale deed. However, these findings of the learned Reference Court by not placing reliance upon award, Ext. PW-1/D are erroneous.

14. It is settled law that where there is no direct evidence available on record, the awards passed with respect to the acquisitions of lands made in the neighboring villages can be relied upon for determining the fair market

value of the acquired land. In ***Union of India vs. Pramod Gupta (dead) by LRs & others, 2005 (12) SCC 1***, the Hon'ble Supreme Court held that the best method, as is well-known, would be the amount which a willing purchaser would pay to the owner of the land. In the absence of any direct evidence, the Court, however, may take recourse to various other known methods. Evidence admissible therefor inter alia would be the sale deeds, judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighbouring villages. Such a judgment/award in the absence of any other evidence like deed of sale, report of the expert and other relevant evidence would have only evidentiary value. The relevant portion of the aforesaid judgment reads as under:

"24. While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.

25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighbouring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value."

15. In ***Ali Mohammad Beigh and Others Vs. State of Jammu and Kashmir, (2017) 4 SCC 717***, it has been held that when the lands are more or less situated nearby, even though lying in different villages, and when the acquired lands are identical and similar and the acquisition is for the same purpose, it would not be proper to discriminate between the land owners unless there are strong reasons. as under:-

“12. When the lands are more or less situated nearby and when the acquired lands are identical and similar and the acquisition is for the same purpose, it would not be proper to discriminate between the land owners unless there are strong reasons. In Union of India v. Bal Ram (2010) 5 SCC 747, this Court held that if the purpose of acquisition is same and when the lands are identical and similar though lying in different villages, there is no justification to make any discrimination between the land owners to pay more to some of the land owners and less compensation to others. The same was the view taken in Union of India v. Harinder Pal Singh (2005) 12 SCC 564, where this Court held as under:-

“15. We have carefully considered the submissions made on behalf of the respective parties and we see no justification to interfere with the decision of the Division Bench of the Punjab and Haryana High Court which, in our view, took a pragmatic approach in fixing the market value of the lands forming the subject-matter of the acquisition proceedings at a uniform rate. From the sketch plan of the area in question, it appears to us that while the lands in question are situated in five different villages, they can be consolidated into one single unit with little to choose between one stretch of land and another. The entire area is

in a stage of development and the different villages are capable of being developed in the same manner as the lands comprised in Kala Ghanu Pur where the market value of the acquired lands was fixed at a uniform rate of Rs. 40,000 per acre. The Division Bench of the Punjab and Haryana High Court discarded the belting method of valuation having regard to the local circumstances and features and no cogent ground has been made out to interfere with the same.

16. In our view, in the absence of any contemporaneous document, the market value of the acquired lands of Village Kala Ghanu Pur which were acquired at the same time as the lands in the other five villages was correctly taken to be a comparative unit for determination of the market value of the lands comprising the lands forming the subject-matter of the acquisition proceedings under consideration.....”

13. When the lands are acquired at the same time and for the same purpose that is for resettlement of Dal dwellers, the lands situated in three different villages namely, Chandapora, Bhagichandpora and Pazwalpora, and since the land is similar land, it would be unfair to discriminate between the land owners and other references and the appellants who are the land owners in Reference No. 15 and pay less that is Rs. 2,50,000/- per Kanal to the appellants and pay more to other land owners that is Rs. 4,00,000/- per Kanal. Impugned judgments of the High Court in CIA No. 211/2009 and Cross Appeal No. 64/2011 are to be set aside by enhancing the compensation to Rs. 4,00,000 per Kanal. As a sequel to this, the order passed in review is also to be set aside”

16. In the instant case, admittedly the land of the petitioners under acquisition is situated at Village Macharyana. The perusal of the evidence on record reveals that award, dated 04.07.2013, Ext. PW-1/D, pertains to Village Judlu, Tehsil Sunni, District Shimla, H.P. It is also not

in dispute that Mauja Macharyana and Judlu falls under the same Patwar Circle. The perusal of evidence further reveals that the distance between Macharyana and Village Judlu is 3-4 Kms whereas the distance between Macharyana and Panohi is 10-15 Kms. PW-3, Brij Lal, who has produced on record Khakha Dasti, Ext. PW-3/A, also shows that Villages Macharyana and Judlu fall under the same Patwar Circle. Thus, learned Reference Court had wrongly assessed the market value of the acquired land on the basis of one year average market value of Village Panohi, which is very far away and falls in another Patwar Circle.

17. Since Village Panohi is situated far away from Village Macharyana and Village Judlu is only 3-4 Kms from Village Macharyana and falls under the same Patwar Circle, therefore, award dated 04.07.2013, Ext. PW-1/D which pertains to Village Judlu can be safely relied upon to assess the market value of the land in question. The land under acquisition with respect to award, Ext. PW-1/D was acquired for construction of Banjan Ghatti-Chanwag Road and learned Reference Court had allowed compensation @ 4 lacs per bigha.

18. It is a settled law that where the entire area is similarly situated, the value of the land under acquisition is to be assessed as a single unit irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter. In ***Gulabi & etc. vs. State of H.P., AIR 1998 HP 9***, it has been held as under:

“As a result of this discussion it is held that the market value of the land on the date of acquisition is Rs.4,000/- per biswa. In this context it is further held that the value of the land under acquisition is to be assessed irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter, Consequently, the appellants are held entitled to compensation at the rate of Rs. 4,000/- per biswa uniformly for all qualities of land and it is ordered accordingly. In taking this view, we are guided by the judgment of the Hon"ble Apex Court reported in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, and the relevant abstracts from the said judgment are as under (paras 7, 11, 13):--

“In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant Notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in a important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard

to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.

The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.

In the instant case it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. Therefore, no deduction could be made on ground, that large tract

of land is required.”

19. In ***Land Acquisition Officer vs. L Kamalamma, (1998) 2 SCC 385, H.P. Housing Board vs. Ram Lal & others, 2003(3) Sim.L.C. 64, Executive Engineer & Anr. vs. Dilla Ram, Latest HLJ 2008 (HP) 1007*** it was held that when the entire land acquired belongs to one block, classification of the same into different categories is not reasonable. In case acquired land is to be used/developed as a single unit for a purpose having no relevancy with quality of land, the classification of land completely loses its significance.

20. In the case on hand also as the land was acquired as the single unit for the public purpose, i.e., for the construction of Shananghati-Dargi-Machryana link road, therefore, the market value of the land has to be assessed at the uniform rate irrespective of its nature and classification.

21. Learned Senior Counsel for the appellants contended that since notification under Section 4 of the Act in award dated 04.07.2013, Ext. PW-1/D was issued and published in State Rajpatra on 02.12.2002, whereas,

notification under Section 4 of the Act in the present case was issued on 30.12.2009, therefore, the appellants are entitled to cumulative increase @ 10 % per annum for seven years on the market value assessed in award Ext. PW-1/D.

22. In ***Durgavati Vs. Nathpa Jhakhri Power Project Corporation and Another, Latest HLJ 2008 (HP) 1328***, it has been held that judicial notice can be taken of the fact that the market value of the land is increasing day by day and there would be an average increase of 10% of the market price every year. The relevant portion of the aforesaid judgment reads as under:-

“8. Keeping in view the ratio of law laid down by the Apex Court in Om Prakash (D) by LRs and Ors. v. Union of India and Anr., Land Acquisition Officer and Revenue Divisional Officer v. Ramanjulu and Ors. (2005) 9 SCC 594, and IInd Additional Special Land Acquisition Officer and Anr. v. Rukhiben and Ors., judicial notice can be taken of the fact that the market value of the land is increasing day by day and there would be an average increase of 10% of the market price every year.”

23. Therefore, in view of aforesaid pronouncement of law, the petitioners are entitled to cumulative rate of increase @ 10% per annum on the market value assessed in award Ext. PW-1/D i.e. on Rs. 4 lacs per bigha by taking cumulative rate of increase @ 10% per annum for seven years, which

comes to Rs. 6,80,000/- per bigha irrespective of the nature and kind of acquired land.

24. Hence, in view of what has been discussed hereinabove, the instant appeal is allowed. Consequently the impugned award stands modified as above. The appellants (claimants) are held entitled to the market value of the land @ Rs. 6,80,000/- per bigha irrespective of the nature and kind of acquired land. The rest of the award shall remain unchanged.

25. It goes without saying that the compensation will be calculated only on the basis of the land value, as fixed by this Court. The State, after calculating the amount of compensation, as above, shall deposit the same before the learned Reference Court within six months from today.

26. The appeal stands disposed of in the above terms. Pending application(s), if any, shall also stand(s) disposed of. Records be sent back forthwith.

**(Sushil Kukreja)
Judge**

8th January, 2026
(raman)