Neutral Citation No. (2025:HHC:37586

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFAs No. 853 of 2012 & 149 of 2021
Reserved on: 30.10.2025
Date of decision: 06.11.2025

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1. RFA No. 853 of 2012:
Bhagwan Dutt & others.

…..Appellants.

Versus

State of H.P. & others.

……Respondents.

2. RFA No. 149 of 2021:
Krishan Dutt & others.

…..Appellants.

Versus

State of H.P. & another.

……Respondents.

Coram
The Hon'ble Mr. Justice Sushil Kukreja, Judge.
[1] *Whether approved for reporting?* Yes.

In both the appeals:

For the appellants: Mr. P.S. Goverdhan, Senior Advocate, with Mr. Rakesh Thakur, Advocate.

For the respondents: Mr. Balvinder Singh Ballu, Deputy Advocate General.

Sushil Kukreja, Judge.

Since both these appeals are the offshoots of award dated 13.07.2012, passed by learned District Judge, Solan, H.P. (hereinafter referred to "learned Reference

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

Court"), they are taken up together for disposal.

2. The facts in brief are that the land of the appellants/claimants, who were petitioners before the learned Reference Court, situated in village Shungal, Tehsil Kandaghat, District Solan, H.P., was acquired by the State of Himachal Pradesh for public purpose, i.e., for construction of Kaithlighat Basha road Notification under Section 4 of the Land Acquisition Act (for short "the Act") was issued on 15.02.2000, which was published in two daily newspapers, i.e., Himachal times and Uttam Hindu on 22.08.2000 and vide publicity was also made in the locality on 16.03.2000. Notification under Sections 6 and 7 of the Act was issued on 23.02.2001, which was published in H.P. Rajpatra on 27.03.2001 and in daily newspaper Dainik Himachal Sewa on 17.03.2001. Consequent upon the notices under Section 9(3) and (4) of the Act the land owners appeared and sought compensation @ Rs.8,00,000/- per bigha for ghasni and Rs.10,00,000/- per bigha for banjar land and also claimed that large number of fruit and non fruit trees have been uprooted at the time of the construction of the road. Ultimately, the Land Acquisition Collector, after conducting detailed inquiry, assessed the market value of the acquired

land as under:

Sr. No.	Classification of the land	Rate per bigha
1.	Kuhal	Rs.17,50,000/-
2.	Katool Awal	Rs.14,00,000/-
3.	Katool Doem	Rs.10,50,000/-
4.	Bangar Aval	Rs.9,66,000/-
5.	Bangar Doem	Rs.6,16,000/-
6.	Bangar Som	Rs.2,66,000/-
7.	Banjar kadeem	Rs.1,26,000/-
8.	Ghansi	Rs.84,000/-

3. On the basis of the above assessment, compensation was awarded by the Land Acquisition Collection alongwith benefit of 12% additional amount, solatium, interest etc..

4. The claimants, being dissatisfied, preferred petitions under Section 18 of the Act before the learned Reference Court and the learned Reference Court held the claimants entitled for enhanced compensation @ Rs.1,40,000/- per bigha qua all categories of the acquired land with solatium, additional compensation and interest etc..

5. The claimants, being again not satisfied with the enhanced compensation, preferred the instant appeals under Section 54 of the Act with a prayer to enhance the

compensation by modifying the impugned award.

6. I have heard the learned Senior Counsel for the appellants (claimants), learned Deputy Advocate General for the respondents/State and have carefully examined the records.

7. Learned Senior counsel for the appellants submits that the impugned award is both against the law and the facts of the case, as the learned Reference Court passed the same on the basis of wrong and improper appreciation of evidence. He further contended that the learned Reference Court did not appreciate the evidence in its right perspective and failed to determine the correct, proper and apt market value of the acquired land. He also contended that the proximity of the area/land of village Shungal from the surrounding town/industrial area of Shoghi, National Highway No. 22 and Railway Stations Shoghi and Kaithlighat was not considered. Lastly, he prayed that the instant appeal be allowed and the impugned award be modified and enhanced compensation @ Rs.5,00,000/- per bigha alongwith cost and entire statutory benefits, as contemplated in the Act, be granted.

8. Conversely, the learned Deputy Advocate

General supported the impugned award by contending that the impugned award has been passed by the learned Reference Court after taking into consideration both law and facts of the case and the same needs no interference. He prayed for dismissal of the appeals.

9. 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.

10. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs and others v. State of Gujarat (1989) 4 SCC 250,*** the Hon'ble Supreme Court 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 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."***

11. 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 advantages 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 pypothetical 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.***
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> ***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."***

12. 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 neighboring 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.***
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> ***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***

> ***neighboring 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."***

13. For ascertaining market value of the acquired land, the Court can no doubt rely upon such sale transactions, which would offer a reasonable basis to fix the price, for which purpose, a sale transaction relating to a smaller parcel of land can be considered for the purpose of assessing the market value in respect of a large tract of land, after making appropriate deductions such as for development of land, for providing space for roads, sewers, drains, expenses involved in formation of a layout, lump-sum payments, as well as for the waiting period required for selling the sites that would be formed and other expenses involved therein, but before doing so, the evidentiary value of such a sale deed is required to be carefully scrutinized. As held in the case of ***Land Acquisition Officer vs. Nookala Rajamallu reported as (2003) 12 SCC 334***, in order to adopt the price reflected in the sale deed, the following conditions are required to be met:

> *"9. It can be broadly stated that the element of speculation is reduced to a minimum if the underlying principles of fixation of market value with reference to comparable sales are made:*
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> *(i) when sale is within a reasonable time of*

the date of notification under Section 4(1);

(ii) it should be a bona fide transaction;

(iii) it should be of the land acquired or of the land adjacent to the land acquired; and

(iv) it should possess similar advantages

10. It is only when these factors are present, it can merit a consideration as a comparable case (see Special Land Acquisition Officer v. T. Adinarayan Setty AIR 1959 SC 429)."

14. In the case on hand, the petitioners have placed on record sale deed, Ex. P-1, dated 24.05.1999, According to this sale deed, 02 biswas of land had been sold for a consideration of Rs.14,000/- which means that the value of the land on the basis of this sale deed in village Shungal was Rs.1,40,000/- per bigha.

15. The petitioners have also placed on record sale deeds, i.e., Ex. P-2, pertaining to village Basha, Ex. P-3 & Ex. P-4 pertaining to village Kathli, Tehsil Kandaghat, District Solan. However, since the sale deed pertains to village Shungal is available, therefore, the sale deeds, Ex. P-2 to P-4, which pertain to other villages, cannot be considered. In ***Ramrao Shankar Tapase vs. Maharashtra Industrial Development Corporation & others, (2022) 7 Supreme Court Cases 563,*** the Hon'ble Supreme Court has held as under:

"27. Looking to the fact that the sale deed produced at Ext. 41 with respect to the land bearing Survey No. 20/2 was

> ***with respect to the very village Bhoyar which was the only sale exemplar of the same village and other sale exemplars/sale deeds were with respect to another village Lohara and also with respect to small pieces of land, we are of the considered view that the High Court has rightly relied upon and considered the sale exemplar at Ext. 41 while determining the compensation in the present cases with respect to the lands of the very village Bhoyar."***

16. In the case on hand, since the aforesaid sale deeds Ex. P-2,Ex. P-3 & Ex. P-4 do not pertain to village Shungal and in view of the fact that there is direct evidence available on record in the form of sale deed, Ex. P-1, dated 24.05.1999, pertaining to village Shungal, hence the learned Reference Court had rightly not taken into consideration the aforesaid sale deeds for the purpose of determining the market value of the acquired land.

17. The respondents/State had also placed on record sale deed, Ex.RW-2/A. The perusal of the aforesaid sale deed shows that the said sale deed is the same as Ex.P-1, which has been relied upon by the petitioner and it pertains to village Shungal. Thus, in the absence of any other satisfactory evidence on record, the learned Reference Court had rightly assessed the market value of the acquired land on the basis of the sale deed, Ex. P-1, relied upon by the petitioners and Ex. RW-2/A, which pertains to village Shungal.

18. The learned Senior Counsel for the appellants (petitioners/claimants) next contended that sale deed, Ex. P-1, does not depict the true value of the land in village Shungal, as the sale had been made by the father in favour of his son. However, this contention of the learned Senior Counsel for the appellants cannot be accepted, as the petitioners themselves have relied upon the same and it was the only sale instance available on record, which pertains to village Shungal wherein the acquired land had been situated.

19. 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 uniformally 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."***

20. 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.

21. Therefore, in view of the aforesaid authoritative pronouncements of law, in the instant case also the land has been acquired as the single unit for the public purpose, i.e., for construction of Kaithlighat Basha road, as such the learned Reference Court had rightly awarded the market value of the acquired land at the flat and uniform rate, irrespective of the classification and category of the acquired

land.

22. The learned Senior Counsel for the appellants next contended that the cumulative rate of increase @ 10% per year has not been granted by the learned Reference Court while assessing the market value of the land @ Rs.1,40,000/- per bigha. However, this contention of the learned Senior counsel for the appellants is devoid of any force. In ***ONGC v. Rameshbhai Jivanbhai Patel, (2008) 14 SCC 745,*** the Hon'ble Supreme Court has held that for the purpose of calculation of the cumulative rate of increase, the year of the relied-upon transaction, which is the base year has to be excluded. The relevant portion of the aforesaid judgement reads as under:

> ***19. We may also point out that application of a flat rate will lead to anomalous results. This may be demonstrated with further reference to the above illustration. In regard to the sale transaction in 1987, where the price was Rs 10 per square metre, if the annual increase to be applied is a flat rate of 10%, the increase will be Rs 1 per annum during each of the five years 1988, 1989, 1990, 1991 and 1992. If the price increase is to be determined with reference to sale transaction of the year 1989 when the price was Rs 12 per square metre, the flat rate increase will be Rs 1.20 per annum, for the years 1990, 1991 and 1992. If the price increase is determined with reference to a sale transaction of the year 1990 when the price was Rs 13 per square metre, then the flat rate increase will be Rs 1.30 per annum for the years 1991 and 1992. It will thus be seen that even if the percentage of increase is constant, the application of a flat rate leads to different amounts being added depending upon the market value in the base year. On the other hand, the cumulative rate method will lead to consistency and more realistic results. Whether the base price is Rs 10 or Rs 12.10 or Rs 13.31, the increase will lead to the same result. The***

> ***logical, practical and appropriate method is therefore to apply the increase cumulatively and not at a flat rate.***
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> ***20. The Reference Court has stated that the gap between 6-1-1987 (the date of transaction covered by Ext. 15) and 15-9-1992 (the date of acquisition under consideration) was six-and-half years. It therefore calculated the increase for six-and-half years. This is obviously erroneous. The actual gap is five years and eight months and not six-and-half years. However, for the purpose of calculation, we have to exclude the year of the relied-upon transaction, which is the base year. If the year of relied-upon transaction is 1987, the increase is applied not from 1987 itself, but only from the next year which is 1988. If the rate was Rs 10 per square metre in 1987, and the cumulative rate of increase is 7.5% per year, the price will be Rs 10.75 in 1988, Rs 11.56 in 1989, Rs 12.42 in 1990, Rs 13.35 in 1991 and Rs 14.35 in 1992. Thus, the calculation of increase is only for five years and not for six-and-half years."***

23. In this case, Notification under Section 4 of the Act has been issued on 15.02.2000 and the sale deed, which has been relied upon by the learned Reference Court, Ex. P-1, is of dated 24.05.1999 as such, the actual gap between the date of issuance of the notification and the date of execution of the sale deed is only about nine months. Therefore, in view of very small gap between the date of issuance of the notification and the date of execution of the sale deed, while assessing the market value of the land, no cumulative rate of increase can be granted, as contended by the learned Senior Counsel for the appellants.

24. No other point was urged.

25. Hence, in view of what has been discussed

hereinabove and also considering the above stated settled principles of law, no interference is required in the impugned award, dated 13.07.2012, passed by learned District Judge, Solan, H.P..

26. The instant appeals, being devoid of merits, deserve dismissal and are accordingly dismissed. Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

6th November, 2025
(virender)