



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9848 of 2023

Decided on: 09.09.2025

Vishwa Nath Sharma & others ... Petitioners
Versus
State of Himachal Pradesh & others ... Respondents

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Whether approved for reporting?¹Yes

For the petitioners : Mr. Raman Sethi, Advocate.
For the respondents : Mr. Rajpal Thakur, Additional Advocate General

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioners have, *inter alia*, prayed for the following reliefs:-

- A. Quash and set aside the impugned decision dated 17-1-2023 (Annexure-P11) being illegal, unconstitutional, unreasonable, arbitrary, discriminatory, biased, unsustainable in the eyes of law having been passed in violation of Article 14 & 16 of the Constitution of India;
- B. Direct the respondents to treat the petitioners being the co-owners covered by the same acquisition under the same notification at par with the other co-owners to whom the benefit by way of damages @15% p.a on the market value of the land w.e.f 1-7-1984 i.e the date when the land owners were dispossessed till 2-9-1993 i.e the date of publication of the notification under Section 4 (1) of the Land Acquisitions Act has already been granted by virtue

¹ Whether reporters of the local papers may be allowed to see the judgment?

of judgment dated 9-3-2016 (Annexure-P9) of the Hon'ble Supreme Court of India;

C. Direct the respondents to calculate the amount of compensation now payable to the petitioners strictly in terms of the judgment dated 9-3-2016 (Annexure-P9) of the Hon'ble Supreme Court of India as has already been paid to the similarly situated land owners and deposit the same in the registry of this Hon'ble Court;

D. Issue writ of certiorari and the revised order dated 13-1-2012 (Annexure-P7) reviewing order dated 30-5-2011 (Annexure-P6) passed by the then, Land Acquisition Collector, Rohru, District Shimla may kindly be declared as null and void as having been passed without any jurisdiction and in the absence of any statutory provision in the Land Acquisition Act for review."

2. Brief facts necessary for the adjudication of this petition are that on 18.09.1993, as per the petitioners, their land was acquired for the construction of Stadium-cum-Helipad at Rohru, District Shimla, H.P., by issuance of a Notification under Section 4 of the Land Acquisition Act, 1894. The possession of the land was taken over by the Government on 01.07.1984 and compensation award was passed on 14.12.1995, i.e. Award No.12/1993. According to the petitioners, certain land owners preferred References under Section 18 of the Land Acquisition Act, however, the petitioners did not prefer any Reference. The References preferred by some other

land owners were decided by learned District Judge on 18.01.1997 and the compensation was enhanced to Rs.23,440/- per biswa. The award passed by the learned District Judge was assailed by the State Government by way of Regular First Appeal before the High Court. During the pendency of these appeals before this Court, petitioners filed application under Section 28-A of the Land Acquisition Act. To cut the controversy short, the application under Section 28-A of the Land Acquisition Act was allowed by the Collector on 30.05.2011 pursuant to the directions passed by this Court in CMPMO No.204 of 2005, Vilaswati & others Versus State of H.P. & Others who assessed the amount of compensation payable to the petitioners to the tune of Rs.64,53,599/-. As per the petitioners, on 13.01.2012, said amount of Rs.64,53,599/- was reviewed at the back of the petitioners and reduced to Rs.54,23,039/-. In the interregnum, some of the land owners had approached Hon'ble Supreme Court of India also, feeling aggrieved by the judgments passed by this Court in the Regular First Appeal preferred by the State and these appeals were decided by the Hon'ble Supreme Court on 09.03.2016,, in terms whereof, Hon'ble Supreme Court allowed compensation by way of damages @15% per annum on the market value of the land w.e.f. 01.07.1984, i.e. the date when the land owners were dispossessed, till 02.09.1993, i.e. the date of

publication of the Notification under Section 4(1) of the Land Acquisition Act.

3. The grievance of the petitioners is that despite the fact that the petitioners are also entitled for the compensation in terms of the judgment of the Hon'ble Supreme Court in Civil Appeal No.1867-1872 of 2009, decided on 09.03.2016, as the land of the petitioners was acquired vide same Notification, in terms thereof, the land of those persons who were before the Hon'ble Supreme Court was acquired, yet the petitioners are being discriminated and in terms of the impugned order the application filed by the petitioners for the grant of the said enhanced amount to them has been arbitrarily dismissed by the Collector.

4. Learned Counsel for the petitioners has taken the Court through the pleadings as well as the documents appended by the petitioners alongwith CMP No.18826 of 2025, i.e. Annexure R/3 and submitted that strangely, whereas the amount in terms of the judgment of the Hon'ble Supreme Court has been paid by the State in the course of execution petition filed by land owners similarly situated as the petitioners, who details are mentioned therein, yet the petitioners are being discriminated thereafter also.

5. On the other hand, learned Additional Advocate General has referred to the order under challenge and has drawn the

attention of the Court to Para-16 thereof and submitted that the application of the petitioners was rightly rejected by the Collector, because the petitioners were neither co-owners nor in any other way interested with the land of the parties who had gone to the Hon'ble Supreme Court of India and in whose favour the orders were passed. Thus, he justified the order passed by the Authority and submitted that there is no perversity therein.

6. I have heard learned Counsel for the parties and have also carefully gone through the impugned orders as well as other documents appended therewith.

7. It is not in dispute that the land owners who were before the Hon'ble Supreme Court and in whose favour the judgment was delivered by the Hon'ble Supreme Court in the year 2016, whose land was also acquired for the same project as the petitioners and that too, by way of the same Notification. This has not been disputed by the State. However, as per the State as the petitioners are not co-owners of the beneficiary land owners of the 2016 orders passed by the Hon'ble Supreme Court of India, therefore, they are not entitled for the benefit of the judgment of the Hon'ble Supreme Court.

8. This Court is of the considered view that this stand of the State is not justified in law. Without dwelling on any other aspect of the matter, if this is the stand of the State that the petitioners are

not entitled for the benefit of the judgment of the Hon'ble Supreme Court, because they are not the co-owners of the beneficiary land owners of the 2016 orders passed by the Hon'ble Supreme Court, then it is not understood as to how the State has given benefit to the persons mentioned in Annexure R/3 appended with the application referred to hereinabove, because it is not the case of the respondents-State that those persons were co-owners alongwith the beneficiary land owners of the 2016, verdict passed by the Hon'ble Supreme Court.

9. Therefore, when the benefit has been given to the other land owners whose land was acquired alongwith the land owners in whose cases orders were passed by the Hon'ble Supreme Court, the petitioners obviously cannot be discriminated. Otherwise also, the reasons as have been spelled out by the Collector in Para-16 of the judgment are not sustainable in law. The principle of re-determination of the amount of compensation on the basis of the award of the Court, as is culled out in Section 28-A of the Land Acquisition Act, 1894, is based on larger principle of equity that wherein the land owners have been deprived of their land as a result of compulsory acquisition, then they should be given best compensation for their land, of course subject to the riders contained in the Land Acquisition Act. The rights which thus accrue

upon a land owner by virtue of the provisions of the Land Acquisition Act, are not sub-servant to the kind of conditions as have been culled out in the impugned order by the Collector.

10. Hon'ble Supreme Court of India in Para-8 of the judgment passed in *Narendra and Others Versus State of Uttar Pradesh and Others*, (2017) 9 Supreme Court Cases 426, has been pleased to hold as under:-

"..... 8. The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in mind that those landowners who are agriculturist in most e of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that

in the matter of compulsory acquisition of lands by the Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell off their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons Scheme further provides that his determination is subject to judicial scrutiny etc. In order to ensure that the landowners are given proper compensation, in the form of reference to the District Judge and appeal to the High Court, the Act provides for "fair compensation". Once such a fair compensation is determined judicially, all landowners whose land was taken away by the same notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them."

11. Therefore, in light of the fact that the Hon'ble Supreme Court itself has been pleased to hold that once a particular rate of compensation is judicially determined which can become a fair compensation, benefit thereof is to be given even to those who could not approach the Court, the act of the respondents of not giving this benefit to the petitioners is arbitrary, discriminatory and not

sustainable in the eyes of law.

12. Accordingly, in view of the above observation, this petition is allowed. Impugned order dated 17.01.2023 (Annexure P-11) is quashed and set aside and the respondents are directed to re-determine the amount of compensation payable to the petitioners in light of the judgment of the Hon'ble Supreme Court in Civil Appeal No.1867-1872 of 2009, decided on 09.03.2016.

13. The petition stands disposed of. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

September 09, 2025
(Rishi)