



**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

RFA No. 102 of 2010

Reserved on: 12.11.2025

Date of decision: 25.11.2025

Union of India.Appellant.
Versus
Dina Nath Verma (since deceased) through LRs & another.
.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellant: Mr. Shashi Shirshoo, Central
Government Counsel.

For respondents No. 1(a) to 1(e):
Mr. Sunil Mohan Goel, Senior
Advocate, with Mr. Abhijeet
Singh Chauhan, Advocate.

For respondent No. 2/State: Mr. Manoj Chauhan, Additional
Advocate General.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant-Union of India, who was respondent No. 2 before the learned Court below (hereinafter referred to as “the appellant”) against award dated 31.12.2009, passed by learned District Judge, Kullu, H.P. (hereinafter referred to as “the learned Reference Court”), in LAC Reference Case No.

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



1 of 2001/101 of 2008, whereby the petition filed by petitioner-Dina Nath (now deceased, through his LRs, who are respondents No. 1(a) to 1(e) herein), under Section 18 of the Land Acquisition Act (for short “the Act”) was allowed and he (Dina Nath) was held entitled for enhanced compensation at the rate of Rs.70,000/- per biswa alongwith solatium, additional compensation, interest etc..

2. The brief facts of the case are that Government of Himachal Pradesh had issued Notification No. HP. Home(A)(E)(13)2/95, dated 20.12.1997, under Section 4 of the Land Acquisition Act, 1894 (for short “the Act”), for acquiring the land of the petitioner, situated in phati Burua, Kothi Manali, Tehsil Manali, District Kullu, H.P. However, Snow and Avalanches Study Establishment, Ministry of Defence, Government of India, took forcible possession of seven biswas of land out of land measuring 1-3-0 bigha comprised in Khasra No. 4824, khata khatauni No. 456 min/849, without taking necessary steps for acquisition and on the said land construction was raised. As per the petitioner, despite his objection, eight fruit trees standing on the land were also cut. The petitioner filed a civil suit in the year 1987, which was dismissed by the Civil Court and in



appeal the learned Additional District Judge, Kullu, vide order dated 06.07.1993, suit was decreed. Subsequently, an execution was filed on 22.08.2014 for taking possession of the land and during the process of execution proceedings, Collector Land Acquisition, Manali, initiated steps for acquisition by issuing aforesaid notification under Section 4 of the Act and the award was announced on 12.08.1999, whereby compensation of Rs.1,46,500/- was awarded to the petitioner.

3. The petitioner/claimant, 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 mainly on the ground that the awarded compensation was inadequate, as the market value of his land was not properly assessed and no compensation for the fruit trees was awarded. As per the petitioner the acquired land was valuable for construction of commercial building and hotels etc and its market value, at the time of the notification, was not less than Rs.45,000/- per biswa.

4. The learned Reference Court, allowed the petition of the claimant and held him entitled for enhanced



compensation at the rate of Rs.70,000/- (rupees seventy thousand) per biswa alongwith solatium, additional compensation, interest on the enhanced amount of compensation and interest under Section 34 of the Act., if not paid. Hence, the appellant-Union of India preferred the instant appeal under Section 54 of the Act with a prayer to quash and set-aside award dated 31.12.2009, passed by the learned Reference Court.

5. At the very outset, it would be pertinent to mention that initially petitioner-Dina Nath filed the petition before the learned Reference Court in the year 2001, which was decided in his favour on 10.06.2003 and enhanced compensation @ Rs.70,000/- per biswa was awarded. However, appellant-Union of India, being aggrieved, preferred an appeal, i.e., RFA No. 296 of 2004, before the this Court, which was allowed, vide order dated 13.10.2008, and the matter was remanded back to the learned Reference Court for consideration afresh with direction that the parties be permitted to lead fresh evidence, if any. Ultimately, the learned Reference Court decided the petition on 31.12.2009.

6. I have heard learned Central Government Counsel for the appellant, learned Senior counsel for



respondents No. 1(a) to 1(e), learned Additional Advocate General for respondent No. 1/State and also carefully examined the records.

7. Learned Central Government Counsel contended that the impugned award is wrong and illegal. He further contended that the learned Reference Court had wrongly appreciated the material on record and wrongly assessed the market value of the acquired land @ Rs.70,000/- per biswa on the basis of the award Ex. PA,, which pertains to *Phati Vashisht* and does not carry the same potentiality and utility to that of the land situated in *Phati Vashisht*.

8. Conversely, learned Senior Counsel for claimants contended that the learned Reference Court had rightly held the petitioner-Dina Nath entitled for enhanced compensation at the flat rate of Rs.70,000/- per biswa on the basis of the award Ex. PA,, as the acquired land, which was situated in *phati Burua*, carries the same potentiality and utility to that of the land situated in *phati Vashisht*.

9. As per the settled principle of law, compensation for the land acquired has to be determined at market value. 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. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. 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.

10. In ***Mehta Ravindraraï Ajiïrai (deceased) through his heirs and LRs and others vs. 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.

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. 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:*
- (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)."*

13. In the instant case, in order to prove the market value of the acquired land, the petitioner-Dina Nath had placed on record copy of award dated 24.07.2002, Ex. PA, copies of sale deeds, Ex. PC and Ex. PD, whereas the respondents have placed on record copy of the sale deeds, Ex. RA, Ex. RC and Ex. RE.

14. The sale deeds placed on record by the petitioners,



i.e. Ex. PC and Ex. PD were not taken into consideration as the sale deed, Ex. PC, pertains to the year 1992, much prior to the date of issuance of notification under Section 4 of the Act and the sale deed, Ex.PD, pertains to the year 1998, which has been executed after one year of the date of notification. The sale deed placed on record by the respondents, i.e. Ex RA, Ex. RC and Ex. RE, were not taken into consideration as these sale transactions were found to be situated far away from the national highway. No evidence has been led by the respondents in order to prove the market value of the acquired land except the aforesaid sale deeds.

15. However, in the absence of any other direct evidence on record, the learned Reference Court had relied upon award dated 06.12.2001, Ex. PA, pertaining to Phati Vashisht, which was acquired for the construction of Manali-Vashisht link road wherein the market value of the land was assessed at the rate of Rs.70,000/- per biswa.

16. 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.

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.”

17. Thus, while determining the amount of compensation payable in respect of the lands acquired by the State, the court may take recourse to various other known methods such as the judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. In the case on hand, the



learned Reference Court had come to the conclusion that the acquired land of the petitioner was situated in *Phati* Burua at Bahang and it was adjoining to the national highway and it has been established on record that the acquired land had same potentiality and utility to that of land situated in *Phati* Vashisht, which was earlier acquired for construction of Manali-Vashisht link road. No cogent and satisfactory evidence has been led by the respondents in order to prove that the acquired land did not have the same potentiality and utility to that of land situated in *Phati* Vashisht. Vide award, Ex. PA, the market value of the land in *Phati* Vashisht was assessed by the learned Reference Court @ Rs.70,000/- per biswa, which award was further affirmed by this High Court. Therefore, the learned Reference Court had rightly assessed the market value of the acquired land of the petitioner @ Rs.70,000/- per biswa on the basis of the award , Ex. PA.

18. 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 31.12.2009, passed by learned District Judge, Kullu, H.P..

19. The instant appeal, being devoid of merits,



deserves dismissal and is accordingly dismissed. Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

25th November, 2025
(virender)