



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

RFA No. 265 of 2015

Reserved on: 18.11.2025

Date of decision: 27.11.2025

Land Acquisition Collector & another.Appellants.

Versus

Sant Ram (since deceased through his LRs) & another.

.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellants:	Mr. Manoj Chauhan, Additional Advocate General.
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For the respondents:	Mr. Hitender Verma, Advocate.
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Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellants/State, who were respondents before the learned Court below (hereinafter referred to as “the appellant”) under Section 96 of CPC read with Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 14.11.2014, passed by learned District Judge, Bilaspur (hereinafter referred to as “the learned Reference Court”), in Land Reference Petition No. 29/4 of 2011, whereby the

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



learned Reference Court enhanced the compensation.

2. The brief facts of the case are that State of H.P. had issued a Notification on 20.09.2004 under Section 4 of the Act for acquisition of land measuring 0-11 bigha, comprised in Khasra No. 2/2/1, situated in village Baner, Tehsil Shri Naina Devi Ji, District Bilaspur, H.P., for construction of Baner-Zakatkhana road. The said notification was published in H.P. Rajpatra on 25.09.2004 and in news papers, i.e., Punjab Kesari and Dainik Tribune on 17.10.2004. On 14.12.2005 a declaration under Sections 6 and 7 of the Act was issued, which was published in H.P. Rajpatra on 31.12.2005 and in news papers, i.e., Ajit Samachar and Divya Himachal on 07.01.2006. Consequent upon notification issued to the petitioners/claimants (respondents herein) under Section 9 of the act, compensation of Rs.76,394/-, which included additional market value and interest under Section 23(1A) of the Act, was awarded.

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



mainly on the ground that the awarded amount was inadequate and insufficient. They averred that the market value of similar type of land was not less than two lacs per biswa, as it had high commercial value. The claimants also averred that compensation qua the walls, trees and other improvements was not given. The land was fertile and it was well connected to basic facilities.

4. The learned Reference Court, allowed the petition of the petitioners/claimants and held them entitled for enhanced compensation at the rate of Rs.36,000/- (rupees thirty six thousand) per biswa qua the acquired land. In addition to the above, the petitioners were also held entitled to solatium, additional compensation, interest etc.. Hence, the appellants/State preferred the instant appeal under 96 CPC read with Section 54 of the Act with a prayer to quash and set-aside the impugned award dated 14.11.2014, passed by the learned Reference Court.

5. I have heard the learned Additional Advocate General for the appellants, learned Advocate for respondents and also carefully examined the records.

6. Learned Additional Advocate General contended that the impugned award is based on conjectures and



surmises and the findings so recorded by the learned Reference Court are not supported by the evidence on record. He further contended that the learned Reference Court had ignored the material evidence on record and granted excessive amount of compensation arbitrarily without any reason. He also contended that the learned Reference Court failed to correctly calculate the market value of the acquired land and granted the award excessively and arbitrarily without any sufficient reason. Lastly, he submitted that the appeal be allowed and impugned award dated 14.11.2014 passed by the learned Reference Court be quashed and set-aside.

7. Conversely, learned Counsel for the respondents supported the impugned award. He contended that the learned Reference Court had rightly held the petitioner/claimants entitled for enhanced compensation at the rate of Rs.36,000/- per biswa qua the acquired land. He further contended that the acquired land had high commercial value and it was well connected to basic facilities. He prayed that the instant appeal, being devoid of merits, be dismissed.

8. At the very outset, it would be apt to mention that



during the pendency of the instant appeal, respondent-Sant Ram (one of the petitioners before the learned Reference Court) died and his legal heirs have been brought on record.

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 Ravindrarai Ajitrai (deceased) through his heirs and LRs & 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 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.”***

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 assess the market value of the land in question, only one award, Ex. PW-1/A, has been placed on record by the petitioner. The respondents have failed to place on record any sale deed or any other material in order to prove the market value of the land under acquisition.

14. 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."

15. In the case on hand, the perusal of award, Ex. PW-1/A, shows that it relates to the acquisition of the land in the same village for the construction of the same road. Therefore, in the absence of any direct evidence, the learned Reference Court had rightly placed reliance upon award, Ex. PW-1/A. The perusal of the award, Ex. PW-1/A reveals that notification therein under Section 4 of the Act was published in H.P. Rajpatra on 20.07.1996 and the market value of the land was assessed in the sum of Rs.20,000/- per biswa. However, in the instant Land Reference Petition, Notification was published on 25.09.2004, that is after about a period of 8 years and during this period obviously the market value of the land might have increased manifold. Thus, in these circumstances, the learned Reference Court had rightly granted the cumulative increase @ 10% per year for a period of eight years in assessing the market value and after granting 80% cumulative increase on the market value in the



sum of Rs.20,000/-, the value of the acquired land in the year 2004 was assessed as Rs.36,000/- per biswa.

16. Hence, in view of what has been discussed hereinabove, no fault can be found in the impugned award dated 14.11.2014, passed by the learned Reference Court. Therefore, 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

27th November, 2025
(virender)

