



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

RFA No. 373 of 2016

Reserved on: 08.04.2026

Date of decision:10.04.2026

Shyam Lal (since dead through his LRs) & others
.....Appellants.

Versus

State of H.P. & others.
.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellants: Ms. Rita Goswami, Senior Advocate, with Ms. Bhawna Dhiman, Advocate.

For the respondents: Mr. B.N. Sharma, Additional Advocate General.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellants, who were petitioners/claimants before the learned Reference Court below (hereinafter referred to as “the petitioners/claimants”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 30.04.2014, passed by learned District Judge, Kinnaur Civil Division at Rampur Bushahr, H.P. (hereinafter referred to as “the learned Reference Court”), in Land Reference Petition No. 0100032/2007, whereby the learned Reference

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



Court partly allowed the petition filed by the petitioners/claimants under Section 18 of the Act and held them entitled for enhanced compensation qua the acquired land at the rate of rupees two lacs per bigha, which was taken as the market value of the acquired land on the date of notification.

2. The brief facts of the case are that the land of the petitioners/claimants and that of proforma respondents, comprised in khata No. 16 min, khatauni No. 63, khasra No. 668, measuring 0-08-75 hectares, situated in village Delath, Sub Tehsil Nankhari, District Shima, was acquired for the construction of Delath-Panda Dhar road and notification, dated 28.01.2004, was issued under Section 4 of the Act. On 29.06.2006 the Land Acquisition Collector passed the award. The petitioners, being dissatisfied with the aforesaid award, preferred a petition under Section 18 of the Act before the learned Reference Court, wherein they averred that the Land Acquisition Collector, had not determined the market value of the acquired land according to the prevailing rates. It was further averred that at the time of the acquisition of the land it was not less than rupees two lacs per bigha and their land was *bakhal awal*, whereas they were awarded



compensation for *bakhal doyam* land. As per the petitioners, a road passed through the middle of the acquired land and they were deprived of its use. The acquired land had six non-fruit bearing and seven fruit bearing apple plants, but no compensation qua the same was assessed. The value of non-fruit bearing trees was not less than Rs.2000/- per tree and fruit bearing trees had value of rupees five to six thousand per tree. Lastly, the petitioners prayed for enhancement of compensation @ Rs.2,00,000/- per bigha qua the acquired land and in addition to this they prayed compensation at the rate of Rs.5,000/- per tree for fruit bearing plants and Rs.2,000/- per tree qua non-fruit bearing trees alongwith all statutory benefits.

3. The learned Reference Court allowed the petition of the petitioners/claimants and held them entitled for enhanced compensation at the rate of Rs.2,00,000/- per bigha and such market value of the acquired land was to be awarded from the date of notification alongwith all statutory benefits.

4. The petitioners/claimants still feeling dissatisfied preferred the instant appeal under Section 54 of the Act with prayer to set-aside the impugned award and enhance the



compensation amount by modifying the award.

5. I have heard the learned Senior Counsel for the appellants, learned Additional Advocate General for the respondents/State and carefully examined the entire records.

6. The learned Senior Counsel for the appellants contended the learned Reference Court had wrongly and illegally restricted the claim of the petitioners/claimants @ Rs.2,00,000/- per bigha by holding that they (petitioners) had only claimed Rs.2,00,000/- per bigha in their relief clause.

7. Conversely, the learned Additional Advocate General supported the impugned award and contended that the learned Reference Court had passed the impugned award after appreciating the facts and law correctly and in their right and true perspective.

8. The perusal of the impugned award shows that the learned Reference Court had determined the market value of the land of the petitioners on the date of notification at Rs.340.40 per centare, i.e. Rs.2,58,704/- per bigha and not Rs.74.09 per centare, i.e. Rs.56,308/- per bigha, but due to the fact that the petitioners/claimants had claimed compensation qua the acquired land @ Rs.2,00,000/- per bigha, the learned Reference Court had restricted the claim



of the petitioners/claimants to the extent that the market value of the acquired land, on the date of the notification, was taken as Rs.2,00,000/- per bigha.

9. The relevant portion of the impugned award reads as under:

“15.The petitioners thus in the normal circumstances are entitled for the highest rate awarded by the Collector for the best category of the acquired land i.e. Rs.340.40 per centare in respect of their land. The market value of the acquired land of the petitioners on the date of notification thus was Rs.340.40 per centare, that is, Rs.2,58,704/- per bigha and not Rs.25.03 per centare or Rs.44.05 per centare etc., as has been determined by the Land Acquired Collector on the basis of classification of the land. the pleadings of the petitioners as pleaded in the petition, particularly, the relief clause, are relevant wherein they have claimed compensation in respect of the acquired land at the rate of Rs.2 lacs per bigha. Therefore, their claim is restricted to the extent that the market value of the acquired land of the petitioners on the date of notification is to be taken as Rs.2 lacs per bigha.”

10. Now the question which arises for consideration before this Court is as to whether the learned Reference Court could have restricted the claim of the petitioners in the sum of Rs.2,00,000/- per bigha, despite the fact that it had determined the market value of the acquired land at the rate of Rs.2,58,704/- per bigha.

11. This question is no longer *res integra* as the Hon'ble Supreme Court in a catena of judgments has held that the claimants shall be entitled to compensation as per the market value and merely because in the appeal some



lesser amount might have been claimed that cannot be a ground to award lesser amount, despite the fact that the claimants are held entitled to higher amount than what was claimed in the appeal.

12. In ***Ashok Kumar & another vs. State of Haryana, (2016) 4 Supreme Court Cases 544***, the Hon'ble Supreme Court held that the amount of compensation that a Court can award is no longer restricted to the amount claimed by the claimant. The relevant portion of the aforesaid judgment is extracted hereunder:

“6. Prior to amendment Act 68 of 1984, the amount of compensation that could be awarded by the Court was limited to the amount claimed by the applicant. Section 25 read as under –

“Section 25. Rules as to amount of compensation –

- (1) When the applicant has made a claim to compensation, pursuant to any notice given under Section 9, the amount awarded to him by the court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under Section 11.***
- (2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the court shall in no case exceed the amount awarded by the Collector.***
- (3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the court shall not be less than, and may exceed, the amount awarded by the Collector.”***

The amended Section 25 reads as under:

“Section 25. Amount of compensation awarded by Court not to be lower than the amount



awarded by the Collector-The amount of compensation awarded by the Court shall not be less than the amount awarded by the Collector under Section 11.”

The amendment has come into effect on 24.09.1984.

7. The pre-amended provision put a cap on the maximum; the compensation by court should not be beyond the amount claimed. The amendment in 1984, on the contrary, put a cap on the minimum; compensation cannot be less than what was awarded by the Land Acquisition Collector. The cap on maximum having been expressly omitted, and the cap that is put is only on minimum, it is clear that the amount of compensation that a court can award is no longer restricted to the amount claimed by the applicant. It is the duty of the Court to award just and fair compensation taking into consideration the true market value and other relevant factors, irrespective of the claim made by the owner.”

13. In **Narendra & others vs. State of Uttar Pradesh & others, (2017) 9 Supreme Court Cases 426**, the Hon’ble Supreme Court has reiterated that the courts are not restricted to awarding only that amount that has been claimed by the landowners/applicants in their application before it. The relevant portion of the aforesaid judgment reads as under:

“5. After hearing the counsel for the parties, we are of the opinion that the issue has already been settled by this Court in Ashok Kumar vs. State of Haryana (2916 4 SCC 544), wherein it is held that that it is the duty of the court to award just and fair compensation taking into consideration true market value and other relevant factors, irrespective of claim made by the landowners and there is no cap on the maximum rate of compensation that can be awarded by the court and the courts are not restricted to awarding only that amount that has been claimed by the landowners/applicants in their application before it.”.....

... ..

13. *From the human rights perspective, persons belonging to the weaker sections are disadvantaged people who are unable to acquire and use their rights because of poverty, social or other constraints. They*



are not in a position to approach the courts even when their rights are violated; they are victimized or deprived of their legitimate due. Here lies the importance of access to justice for socially and economically disadvantaged people. When such people are denied the basic right of survival and access to justice, it further aggravates their poverty. Therefore, even in order to eliminate poverty, access to justice to the poor sections of the society becomes imperative. In the instant case, it is the poverty which compelled the appellants to restrict the claim to Rs.115 per square yard, as they were not in a position to pay the court fee on a higher amount.

... ..

17. *Simply because the appellants had paid court fee on the claim at the rate of Rs.115 per square yard could not be the reason to deny the compensation at a higher rate. This could be taken care of by directing the appellants to pay the difference in court fee after calculating the same at the rate of Rs.297 per square yard.”*

14. In the case on hand, as observed earlier, the learned Reference Court had restricted the claim of the petitioner in the sum of Rs.2,00,000/- per bigha, despite the fact that it had determined the market value of the acquired land at the rate of Rs.2,58,704/- per bigha. Therefore, in view of the aforesaid decisions of the Hon'ble Apex Court, after determining the market value of the land under acquisition at Rs.2,58,704/- per bigha, the learned Reference Court could not have restricted the claim of the claimant to Rs.2,00,000/- per bigha, as has claimed in his petition.

15. Hence, the claimants are entitled to the enhanced market value of the acquired land in the sum of Rs.2,58,704/- per bigha alongwith all statutory benefits. Rest



of the terms of the impugned award shall remain the same. However, it is made clear the appellants shall pay the difference in the court fee after calculating the market value of the land @ Rs.2,58,704/- per bigha.

16. In view of the above, the impugned award stands modified as above and the appeal stands disposed of in the above terms.

17. Pending application(s), if any, shall also stand(s) disposed of.

**(Sushil Kukreja)
Judge**

10th April, 2026
(virender)