

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

RFA No.383 of 2017 a/w RFA Nos.385/2017,
269/2016, 381/2017, 384/2017, 270, 272, 273,
274, 275, 276, 278, 279,382, 383, 384, 385,
386 & 387/2016

Date of Decision: December 22, 2017

1. RFA No.383 of 2017
The Land Acquisition Collector HPPWD Central Zone
Mandi & another
...Appellants.

Versus

Sh.Tulsi Ram & others
...Respondents.

2. RFA No.385 of 2017
The Land Acquisition Collector HPPWD Central Zone
Mandi & another
...Appellants.

Versus

Jeet Ram & others
...Respondents.

3. RFA No.269 of 2016
The Land Acquisition Collector HPPWD Central Zone
Mandi & another
...Appellants.

Versus

Sh.Banshi Ram
...Respondent.

4. RFA No.381 of 2017
The Land Acquisition Collector HPPWD Central Zone
Mandi & another
...Appellants.

Versus

Roshan Lal & others
...Respondents.

5. RFA No.384 of 2017
The Land Acquisition Collector HPPWD Central Zone
Mandi & another
...Appellants.

Versus

Sh.Kanshi Ram & others
...Respondents.

6. RFA No.270 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Paras Ram & another

...Respondents.

7. RFA No.272 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Dhani Ram & another

...Respondents.

8. RFA No.273 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Dhani Ram & others

...Respondents.

9. RFA No.274 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Durga Ram & others

...Respondents.

10. RFA No.275 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Roshan Lal & others

...Respondents.

11. RFA No.276 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Smt.Kaili Devi & others

...Respondents.

12. RFA No.278 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Lachhi Ram & another

...Respondents.

13. RFA No.279 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Sher Singh & others

...Respondents.

14. RFA No.382 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sunder & others

...Respondents.

15. RFA No.383 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Dhani Ram & another

...Respondents.

16. RFA No.384 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Swaru Ram & others

...Respondents.

17. RFA No.385 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Lekh Ram & others

...Respondents.

18. RFA No.386 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Sh.Amar Nath & others ...Respondents.

19. RFA No.387 of 2016

The Land Acquisition Collector HPPWD Central Zone
Mandi & another

...Appellants.

Versus

Bhandaru (deceased) through his LR's ...Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Acting Chief Justice.

Whether approved for reporting?¹ No.

For the Appellants: Mr. Shrawan Dogra, Advocate
General with M/s R.S.Verma &
R.M.Bisht, Additional Advocate
Generals, for the appellants-State.

For the Respondents: M/s Malay Kaushal, N.S.Thakur,
Dinesh Bhanot & Ms.Ritika Jassal,
Advocates for the respective
respondents.

Sanjay Karol, ACJ (oral).

CMP(M) Nos.2189, 2191, 2190 & 2188/2016

For the reasons set out in the applications,
delay in filing the appeals, which in my considered view,

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

has sufficiently been explained, is condoned. Applications stand disposed of. Appeals be registered.

RFA No.383 of 2017 a/w RFA Nos.385/2017, 269/2016, 381/2017, 384/2017, 270, 272, 273, 274, 275, 276, 278, 279382, 383, 384, 385, 386 & 387/2016

At the time of hearing, learned counsel for the parties jointly prayed that all these appeals be heard together and disposed of by a common judgment.

2. In terms of the present appeals, State lays challenge to the common Award dated 11.05.2015, passed by learned District Judge, Bilaspur, H.P., in various Land Reference Petitions.

3. Certain facts, as have emerged from the record, are not in dispute: (a) Land situate in Village Dabour, Post Office and Sub-Tehsil Namhol, District Bilaspur, H.P., was acquired for public purpose, namely, construction of Kahal-Katal road; (b) Acquisition proceedings commenced with the publication of notification dated 15.01.2010 under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act); (c) On 09.12.2011, Collector Land Acquisition passed Award No.12; (d) Land pertaining to 23 different land owners stands acquired; (e) Individually each one of

the land owners do not possess the land more than 5 bighas (which is 9695 sq.yards & 8106 sq.mts); (f) The Collector Land Acquisition determined the market value of the acquired land, category-wise ranging from ₹1,02,000/- to ₹8,50,000/- per bigha; (g) Dissatisfied with the amount so determined, claimants filed land reference petitions, which stand decided in terms of the impugned award.

4. Relying upon the decision rendered by the Apex Court in *Haridwar Development Authority vs. Raghubir Singh & others*, (2010) 11 SCC 581, Collector Land Acquisition, uniformly determined the market value of the acquired land. It is not in dispute that the entire acquired land stands fully utilized for the public purpose. As such, ratio of law laid down in *Haridwar Development Authority* (supra), stands correctly applied to the attending facts.

5. While re-determining the market value, ranging from ₹1,02,000/- to ₹8,50,000/- per bigha, as awarded by the Collector, one notices that the Collector Land Acquisition has rejected the evidence led by the claimants seeking compensation on the basis of market

value higher than what the Collector Land Acquisition has determined for the best category of the land.

6. Under these circumstances and what specifically laid down by the Apex Court in *Haridwar Development Authority* (supra), it cannot be said that redetermination of the acquired land on uniform basis is illegal or erroneous.

7. In *Union of India vs. Harinder Pal Singh and others* 2005(12) SCC 564, while determining the compensation for acquisition of land pertaining to five different villages, the Apex Court uniformly awarded a sum of ₹ 40,000/- per acre, irrespective of the classification and the category of land.

8. Further, in *Nelson Fernandes vs. Special Land Acquisition Officer* 2007(9) SCC 447 while dealing with the case where the land was acquired for laying a Railway line, the Court held that no deduction by way of development charges was permissible as there was no question of any development thereof.

9. Similar view stands taken by this Court in *Gulabi and etc. Vs. State of H.P.*, AIR 1998 HP 9 and later on in *H.P. Housing board vs. Ram Lal & Ors.* 2003(3) Shim.

L.C. 64, which judgment has attained finality as SLP (Civil) No. 15674-15675 of 2004 titled as Himachal Pradesh Housing Board vs. Ram Lal (D) by LRs & Others, filed by the H.P. Housing Board came to be dismissed by the Apex Court on 16.8.2004.

10. This judgment was subsequently referred to and relied upon by this Court in *Executive Engineer & Anr. vs. Dilla Ram* {Latest HLJ 2008 HP 1007} and relying upon the decision of the Apex Court in *Harinder Pal Singh (supra)*, wherein the market value of the land under acquisition, situated in five different villages was assessed uniformly, irrespective of its nature and quality, also awarded compensation on uniform rates.

11. It is a matter of fact that the entire land was put to public purpose. Road stood constructed thereupon. It was used for only one purpose and as such there cannot be any error in uniform determination of the market value of the acquired land.

12. However, one finds that the Reference Court has awarded rate of interest from the date of taking over of possession or issuance of publication of notification under Section 4 of the Act, whichever is earlier.

13. It is a settled principle of law that compensation for acquisition of land has to be awarded in terms of the Act alone and as such, interest has to be payable not from the date of actual possession, which may be prior to the date of publication of the notification under Section 4 of the Act, but from the date on which it came to be published.

14. This is what the Hon'ble Supreme Court of India has held in *Sunder Versus Union of India*, (2001) 7 SCC 211 and a Coordinate Bench of this Court in *Land Acquisition Collector Versus Kaila and others*, 2010 (1) Shim.LC 25, wherein it is held that the interest for the acquired land is to be paid only under the provisions and in terms of the Act, which would become applicable only with the publication of the notification under Section 4 of the Act.

15. Perhaps what weighed with the Reference Court in awarding interest from the date of possession is the fact that road was constructed way back in the year 1990, since when the poor farmers have been agitating their grievances with the concerned authorities. Only when this Court intervened did the State take steps for

acquisition of the land utilized for the purpose of construction of road.

16. Be that as it may, the position in law is unambiguously clear. Claimants are entitled to compensation for the acquired land only in terms of the Act and as such, the impugned award dated 11.05.2015, passed by learned District Judge, Bilaspur, H.P., in various land reference petitions, is modified to the extent that interest shall be payable from the date of publication of the notification and not prior thereto.

With the aforesaid observations, present appeals stand disposed of, so also pending application(s), if any.

(Sanjay Karol),
Acting Chief Justice

December 22, 2017
(Purohit)