

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

**CMPMO No. 304 of 2024
Decided on: 27.11.2025**

State of H.P. and others

..... Petitioners

Versus

Shakuntla Devi

.....respondent

Coram:

Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting? ¹

For the petitioners : Mr. Manish Thakur, Deputy Advocate General.

For the respondent : Mr. Ramesh Sharma and Rajat Kumar, Advocates.

Bipin Chander Negi, Judge (oral)

The acquisition in the case at hand was made for the Theog-Kotkhair-Hatkoti road, constructed under the World Bank Funded State Road Project. Section 4 notification in the case at hand was passed on 06.02.2007. Initially, with respect to the land acquired, the Land Acquisition Collector had passed a negotiated award bearing No. 39 of 2008 on 11.09.2008. In so far as trees and structure were concerned, a supplementary award qua the same was passed on 18.12.2009 bearing award No. 51 of 2009. For the present we are concerned with the supplementary award so passed. In so far as the supplementary award was concerned,

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

reference against the same was preferred before the District Judge (C.B.I. Shimla) and the same was finally decided on 30.11.2016.

2. Subsequent to the passing of the reference award dated 30.11.2016, an application was filed by the present respondent, seeking correction of certain clerical errors, which had occurred in the reference award dated 30.11.2016. In so far as the said application was concerned, no reply was filed by the State, despite having been afforded an opportunity. The application was allowed vide order dated 01.03.2017. The Court while allowing the application observed that the mistakes sought to be rectified were accidental slips, clerical in nature, which are apparent on the face of the record.

3. In pursuance to the order dated 01.03.2017, corrections in the award dated 30.11.2016 were made as is evident from the copy of the amended judgment placed on record as Annexure-P4 (page 30 of the paper book). Thereafter, appropriate execution proceeding was initiated on 24.07.2018 by the present respondent. In so far as the execution was concerned, the present petitioner/State had filed objections. Primarily, the dispute pertained to the value of the structure. The respondent herein was claiming a sum of approximately Rs. 50.5 lakhs, whereas the petitioners/State was claiming the value of the structure in the case at hand to be 39.25 lakhs.

4. The difference was on account of inflations claimed by the respondent, as detailed in Ext. P2, filed before the reference Court presently placed at page No. 144 of the paper book. Ext. P2 is a letter dated 21.09.2012, issued by the Engineer-in-Chief HPPWD. The same pertains to the plinth area rates for preparation of rough cost estimates of buildings in Himachal Pradesh. In the same, in the form of a chart integrated plinth area rate has been formulated in the same at serial No. 3, for residential buildings for all departments. In the same, it has been categorically mentioned that the rates specified therein will be adopted for assessment/evaluation of buildings.

5. The chart details the basic rate per square meter for a plinth area. Besides the same, additions to be made on account of water supply, sewerage installation, electrical installation, site development have also been provided in percentages, rate per square meter. On adding of the same in the last column, a total integrated plinth area rate has been calculated. For example, in so far as the residential buildings are concerned, the basic rate per square meter for plinth area has been specified as Rs. 14,700/- per square meter. However, after making additions on account of water supply, sewerage installation, electrical installation and site development, the total integrated plinth area rate is specified as Rs. 19,845/-. Ext. P2 in the reference Court placed at page No. 144 of the paper book is dated 21.09.2012.

Prior to this, the plinth area rates were being calculated on the basis of letter dated 31.10.2008.

6. The reference Court while passing the award specifically para 22 has noticed the difference in the price per square meter existing in the year 2008 and in the year 2012. The reference Court has taken the difference between the Basic plinth rates specified in two years, i.e., from the rates specified in the year 2012, i.e., Rs. 14,700/- (Basic plinth rate) reduced Rs. 9,442/- (Basic plinth rate), i.e., the rates specified in 2008. The difference being Rs.5,258/-

7. Differential in Basic plinth area rates calculated herein-above has then been divided by four to arrive at an average increase per annum from 2008 till 2012, i.e., Rs. 1,316/-. Since in the case at hand, the house had been acquired in the year 2009 and the supplementary award No. 51 of 2009 was passed on 18.12.2009, therefore, to the value Rs. 9442/- per square meter plinth area specified in Annexure-P1 at page No. 143, a sum of Rs. 1316/- has been added and therefore, the rate arrived at is 10,758/- in para 22 of the award. The aforesaid position qua determination of basic plinth rate is not disputed by either side.

8. In the aforesaid backdrop, the claim qua other inflations based on Ext. P2 by the present respondent was declined by the executing Court vide order dated 22.04.2022, as

according to executing Court, reliefs claimed on the basis of Ext. P2 had not been granted by the reference Court in the relief clause in the award dated 30.11.2016. Feeling aggrieved thereof, a revision petition bearing No. 63 of 2022 was filed. The same was withdrawn with liberty reserved to moving an appropriate application for correction of the amended award dated 30.11.2016.

9. In pursuance to this order dated 25.04.2022, passed in Civil Revision No. 63 of 2022, an appropriate application seeking inflations as provided in Ext. P2 was filed before the reference Court. The same was allowed, vide order dated 22.06.2023. The reference Court treated the error sought to be incorporated as a clerical error and it was further of the view that none should suffer for an of the Court, hence the impugned order was passed.

10. Heard learned counsel for the parties and perused the pleadings.

11. At the very outset, learned counsel appearing on behalf of the petitioner/State has fairly drawn the attention of this Court to a valuation report placed on record before the reference Court Ext. RW1/A, a mention whereof has been made in para No. 22 of the reference award. From a perusal of Ext. RW1/A, it is evident that while calculating the value of the house of

respondent No. 1, additions on account of electrical installation charges, water supply and sewerage installation charges and site development charges have been incorporated by the respondent. However, the rates specified therein are 5% for electrical installation charges, 5% for water supply and sewerage installation charges. In so far as the site development charges are concerned, the rate specified therein as 10%.

12. Based on the aforesaid, learned counsel appearing on behalf of petitioner/State fairly concedes that additions on account of electrical installation, water supply and sewerage installation charges and site development charges have to be awarded in favour of the respondent on account of acquisition of her house. However, it is the rate at which the same have to be granted which is disputed.

13. Learned counsel appearing on behalf of petitioner/State qua the rate at which the inflation has to be given, submits that the rates specified in Ext. P2 placed at page No. 144 of the paper book, cannot be applied retrospectively, they are prospective. It is further contended that the house has been acquired in 2009, hence rate prescribed for the said year as detailed in Ext. RW1/A need to be given. Other than this, it is contended that the only purpose for referring to Ext. P2 by the reference Court is for working out the average increase per

annum in the specified basic flat rate for the plinth area and nothing more.

14. "In my considered view, there is force in the arguments of the learned counsel appearing on behalf of the petitioners/State for the below mentioned reasons. The supplementary award bearing No. 51 of 2009 in the case at hand was passed on 18.12.2009. The same pertained to the valuation of the tress and structures. While calculating the valuation of the structure in the case at hand as has been fairly considered by counsel for the petitioners/State, additions on account of electrical installation charges, water supply and sewerage installation charges & site development charges have to be awarded in favour of the respondents. The rates applicable would be the one which existed on the date on which the supplementary award bearing No. 51 of 2009 was passed i.e. on 18.12.2009. The rates applicable on the date of passing of the award in the case at hand have been detailed in Exhibit RW-1/A i.e. 5 % for electrical installation charges, 5% for water supply and sewerage installation charges and 10% for site development charges. The rates on which the respondents placed reliance have been detailed in Exhibit P-2 placed at page 144 of the paper book and is dated 21.9.2012. The same cannot have a retrospective effect. The application of the rates detailed in Exhibit P-2 would only be prospective.

15. In view of the aforesaid, petition filed partly succeeds inflations as granted in the impugned judgment dated 22.6.2023 on the basis of Exhibit P-2 is quashed. It is made clear that the inflations to be granted to the respondents in the case at hand would be based on the rates specified in Exhibit RW-1/A. Pending miscellaneous applications, if any, also stand disposed of.

(Bipin Chander Negi)
Judge

27th November, 2025
tarun