

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA****RFA No. 150 of 2015****Reserved on: 30.10.2025****Date of decision: 26.11.2025**

Land Acquisition Collector, HPPWDAppellant

Versus

Rupinder SinghRespondent

Coram

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

¹ *Whether approved for reporting?*

For the appellant: Mr. Balvinder Singh, Deputy
Advocate General.

For the respondent: Mr. Virender Singh Rathore,
Advocate.

Sushil Kukreja, Judge

The instant appeal has been preferred by the appellant, who was respondent before the learned Court below against award dated 09.01.2013, passed by learned District Judge Kangra at Dharamshala, H.P. (hereinafter referred to as "the learned Reference Court"), in Reference Case (RBT) No. 4-K/IV/2010/2007, whereby the petition filed by the petitioner/claimant Rupinder Singh (respondent herein), under Section 18 of the Land Acquisition Act (for short "the Act") was allowed and he was held entitled for enhanced compensation at the rate of Rs. 283.33 per sq.

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



meter, which comes to Rs. 4,57,011.29 or Rs. 4,57,000 (rounded off) alongwith additional compulsory acquisition charges, interest etc.

2. The brief facts of the case are that land bearing Khata No. 39 min, Khatauni No. 47 min, Khasra No. 203/1, measuring 0-16-13 Hectares, situated in Mohal Masot, Tehsil Dehra, District Kangra, recorded in the name of the petitioner Rupinder Singh was acquired for the construction of W.S.S. Banni Khadwana. The classification of land was ***Khraitar*** and vide Award No. 16, dated 03.03.2005, compensation of Rs. 1,42,863/- was assessed at the rate of Rs. 88.57 per square meter and with all statutory benefits, the petitioner was awarded a sum of Rs. 2,57,004/-.

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 assessment of compensation, qua the land brought under acquisition, was not in consonance with the prevailing market value of the land.

4. The learned Reference Court, allowed the



petition of the claimant and held him entitled for enhanced compensation at the rate of Rs. 283.33 per sq. meter, which comes to Rs. 4,57,011.29 or Rs. 4,57,000 (rounded off) alongwith additional compulsory acquisition charges, interest etc. In addition to the above, the petitioner was also held entitled to solatium, additional compensation, interest on the enhanced amount of compensation and interest under Sections 28 & 34 of the Act. Hence, the appellant preferred the instant petition under Section 54 of the Act with a prayer to quash and set-aside/modify the award dated 09.01.2013, passed by the learned Reference Court.

5. I have heard the learned Deputy Advocate General for the appellant/State, learned Counsel for the respondent and also carefully examined the records.

6. Learned Deputy Advocate contended that the learned Reference Court had wrongly appreciated the material on record and wrongly enhanced the market value of the land from Rs. 88.57 per square meter to Rs. 283.33 per square meter, which comes to Rs. 4,57,000/- and is much more than the compensation assessed by the Land Acquisition Collector. Therefore, he submitted that the appeal



be allowed and impugned award dated 09.01.2013 passed by the learned Reference Court be modified/set-aside.

7. Conversely, learned counsel for respondent contended that the learned Reference Court had rightly held him entitled for enhanced compensation, hence, the awarded amount of compensation is just and fair and necessitates no interference. Lastly, he prayed for dismissal of the instant appeal.

8. 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 let 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.

9. In ***Mehta Ravindrarai Ajitrai (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."

10. 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"

11. 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. ***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.”

13. 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)."

14. In the instant case, after going through the entire evidence on record, it has become clear that in order to prove the market value of the acquired land, the petitioner has relied upon Sale Deed, Ext. PW-2/A and copy of average one year market value of the land, Ext. PA. The learned Reference Court has not relied upon Sale Deed, Ext. PW-2/A, as the market value of the land borne in Ext. PW-2/A was not a reckonable parameter. The petitioner has also placed reliance upon average one year market value of the land in the Mohal contemporaneous to the issuance of Notification under Section 4 of the Land Acquisition Act, where the land subjected to acquisition is situated, as revealed by Ext. PA and its value has been assessed as Rs. 283.33 per square meter. However, the Land Acquisition Collector proceeded to rely upon Ext. RW-1/D which denotes the average one year market value for the year succeeding to the year, in which, the proceedings for acquiring the land by issuance of the Notification under Section 4 of Land Acquisition Act were commenced. The learned Reference Court has rightly not relied upon Ext. RW-1/D, as average



one year market value of the land, as reflected therein, might have been rigged, so as to deprive the petitioner of the benefit of Ext. PA, which otherwise was contemporaneous to the issuance of Notification under Section 4 of the Land Acquisition Act. Hence, the learned Reference Court did not commit any error while assessing the market value of the land at the rate of Rs. 283.33 per square meter on the strength of Ext. PA, which comes to Rs. 4,57,000/-

15. No other point was urged before me.

16. Accordingly, the impugned award passed by learned Reference Court, requires no interference and the instant appeal, which is devoid of merits is accordingly dismissed. Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

26th November, 2025
(raman)