

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 271 of 2019 alongwith connected matters

Date of Decision: 26.05.2025

1. RFA No. 271 of 2019

Gulat Ram (deceased) through LRs

...Appellants.

Versus

State of H.P. & others

.....Respondents

2. RFA No.147 of 2017

Surender Singh

....Appellant

versus

State of H.P. & Ors.

.....Respondents

3. RFA No.148 of 2017

Yadvinder Tara & others

.....Appellants

versus.

State of H.P. & another.

.....Respondent

4. RFA No. 12 of 2019

State of H.P. & others

.....Appellants

Versus

Surender Singh

.....respondent

5. RFA No.285 of 2019

State of H.P. & Ors.

.....Appellants

Versus

Tara Chand (deceased) through his LR.

.....Respondents

Coram

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the appellants: Mr. Devender Singh Nainta, Advocate
for the appellant in RFA No.271 of 2019

Mr. Ramesh Sharma, Advocate, for the
appellants in FA No. 147 and 148 of
2017

For the respondents: Mr. Diwakar Dev Sharma, Additional
Advocate General for the appellants
RFANo.12 of 2019 and 285 of 2019 and
for the respondents in RFA Nos 271 of
2019 and 147 of 2017 and 148 of 2017.

Bipin Chander Negi, Judge (oral)

All these matters arise out of the same acquisition proceedings and hence they are being taken up together for an adjudication.

2. Acquisition in the case at hand pertains to the construction of Parsa Dhara-Shekhal road. Notification under Section 4 of the Act (acquired land existing in village Chak Dhara Tehsil Rohru) was issued on 24.07.2007, the same was published in local news papers on 11.08.2007 and in the Rajpatra on 18.08.2007. Besides the aforesaid publication qua the same was done in the locality on 18.09.2007.

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

3. Vide common award bearing No. 51 of 2008, dated 22.10.2008, the Land Acquisition Collector had passed his award qua the acquired lands and the trees there upon. In the award so passed by the Collector, irrespective of classification of land a uniform rate of Rs.90,000/-per bigha was awarded with respect to acquired land and a sum of Rs. 1,31,984/-was awarded with respect to the trees damaged/up-rooted during acquisition.

4. Feeling aggrieved of the award so preferred, a reference petition was filed by the claimants, namely Surender Singh and Tara Chand. In so far as the compensation for the land was concerned, the reference Court awarded at the rate of Rs. 2,984/- per sq. meter. In so far as the trees damaged/up-rooted during the acquisition proceedings were concerned, relying upon the judgment passed by this Court in **State of H.P. Vs. Liaq Ram** reported in **AIR 1987 H.P.14**, compensation of one tree was granted for every one biswa acquired . As per the same a biswa consists of 32 centiares, therefore, total

numbers of trees were determined by dividing the land acquired by 32 centiares.

5. Based on the aforesaid in so far as Surender Singh was concerned, it was found that the total land acquired from Surender Singh for construction of the road in the case at hand was 640 centiares. Hence 640 centiares was divided by 32 centiares and on the basis of the same it was determined that Surender Singh could only be awarded for twenty trees damaged/up-rooted during acquisition proceedings.

6. Similarly, in the case of Tara Chand, total land acquired from him measured 0-12-15 hect. Applying the same formula as had been considered in the case of Surender Kumar, it was ascertained that the trees damaged/uprooted during the acquisition was only 37 trees in so far as the land acquired from Tara Chand was concerned. Hence Tara Chand was to be paid for only 37 trees.

7. In the aforesaid facts and circumstances the only contention raised on behalf of the appellants/claimants is that they have not been correctly

awarded for trees which were uprooted/damaged from their acquired land during the process of acquisition. In this respect, attention of this Court has been invited to EXPW1/D-a document prepared during the acquisition proceedings by the concerned Naib Tehsildar, Land Acquisition Collector. From the perusal of the same, it is evident that in so far as Tara Chand is concerned, total number of trees uprooted/damaged during acquisition proceedings were 50 and in the case of Surender Singh, they were 34 . Other the aforesaid attention has been invited to the statement made by the concerned J.E , who based on record prepared during the acquisition proceedings submitted in his examination in chief as PW-2 that in so far as Tara Chand is concerned total number of trees uprooted/damaged on account of acquisition in his land were 50 and in so far as Surender Singh is concerned, total number of trees uprooted/damaged during the process of acquisition were 34.

8. There is merit in the submissions of the counsel appearing on behalf of the claimants as the documents on which reliance has been placed carries with it a

presumption of regularity as it is an official act performed during the course of acquisition proceedings (Section 114(e) of Indian Evidence Act.)

9. The value of one plant in so far as Surender Singh is concerned, has been assessed Rs.15602/-.However, he has only been awarded this amount for 20 trees. Now the aforesaid needs to be awarded for 34 trees. Meaning thereby that the amount now which is sought to be awarded is 14×15602 .

10. In so far as Tara Chand is concerned, he has been awarded an amount of Rs.14499/- for trees damaged/uprooted during the process of acquisition. The aforesaid amount has only been paid qua 37 trees whereas in so far as his acquired land is concerned there have been found to be 50 trees in terms of EXPW1/D. Therefore, now he needs to be awarded an amount of Rs.14,499 $\times$ 13 trees.

11. They are also entitled to all statutory benefits of the Land Acquisition Act on the enhanced amount of compensation as has been ordered in the award.

12. In so far as the appeals filed by the State are concerned, the sole contention raised therein is that no deduction on account of development charges have been provided in the award passed by the Reference Court. The acquisition in the case at hand has been made for construction of a road. Nothing has been placed on record to demonstrate that further development is required for building the road in question for which the lands have been acquired. Since no investment is required to be made on developmental activity therefore, the arguments in the case at hand deserves to be rejected.

13. In so far as the petition filed on behalf of Gulat Ram is concerned, it is submitted that the Notification in the case of Gulat Ram under Section 4 was made on 05.04.2008. The purpose of acquisition was the construction of the Parsa Dhara-Shekhal road and the acquisition was also made in Village Chak Dhara. In the Reference award passed by the Additional District Judge(1), Shimla, camp at Rohru, vide judgment dated 20.02.2015 a uniform rate of 90,000/- per bigha has been awarded to the petitioner in the case at hand.

14. In the aforesaid back drop the sole contention raised is that in the same village for the construction of the same road for acquisition made in pursuance to Section 4 Notification issued on 24.07.2007 vide Reference award dated 25.4.2017, the Reference Court had awarded an amount of Rs. 2,954/-irrespective of classification of land. Hence the same needs to be awarded to the present claimant/appellant also.

15. In my considered view the judicially determined rate in terms of Reference award passed on 25.7.2017 needs to be awarded in favour of the present petitioner (LRs of Gulat Ram). In view thereof petitioner(LRs Gulat Ram) would be entitled to enhanced amount of compensation at the rate of Rs.2,954/- alongwith all statutory benefits detailed in the Land Acquisition Act as have been mentioned in the award of the Reference Court.

Petitions are disposed of in view of the aforesaid terms. so also pending application(s) if any.

(Bipin Chander Negi)
Judge

May 26, 2025 (veena)