

**Jagdish Chand versus Collector Land  
Acquisition HPPWD & Another**

**RFA No.01 of 2022**

**08.05.2026. Present:** Mr. Mohar Singh, Advocate, for the petitioner.

Mr. P.K. Nadda, Additional Advocate General, for the respondent-State.

Grievance is that pursuant to Section 4 Notification dated 01.12.1994 under Land Acquisition Act, 1984 land(s) including structure was acquired by Land Acquisition Collector, for construction of NH-20 Road, for which the compensation of Rs.22,18,069/- was awarded in terms of Award passed on 03.01.1997. Supplementary Award was passed on 01.11.2003 awarding compensation for house, structure, fruit trees etc. amounting to Rs.23,99,797/- to the appellant.

**2.** The Award and Supplementary Award was assailed before Learned Reference Court on ground of inadequacy of compensation, as the industry was profit making industry for which no compensation was awarded by the Collector. This

plea was disallowed by Learned Reference Court on 16.07.2013.

**3.** The order dated 16.07.2013 passed by Learned Reference Court was assailed in RFA No.155 of 2014, titled *Jagdish Chand v. Collector Land Acquisition and another*, decided on 04.12.2019, remanding the matter to Learned Reference Court, to decide the Reference Petition afresh, after taking into consideration the documents placed by the parties on record, in the following terms:-

“4. To say the least, the findings recorded by the Reference Court is totally perverse and contrary to law. The Reference Court has simply awarded compensation for building, structure and machine in favour of the petitioner without realizing that the industry set-up by the petitioner was a profit making industry and, therefore, was required to be assessed separately. The method of capitalization of returns actually received or other mode of assessment was required to be worked out by the Reference Court and the petitioner could not have been paid only the costs of the machinery or the building as that only amounts to paying the actual value of the industry

without taking into consideration the returns which the petitioner had been receiving from such industry.

5. It is for this reasons that in some of the States including Jammu and Kashmir, there was specific provision in the Rules itself with regard to the acquisition of house property wherein the average market value of 10 years or 20 times of the only rent is adopted.
6. When properties sold with land and building, it is difficult to secure reliable evidence that sale of same land without building proximate in time to the date of notification under Section 4. Therefore, the method which is generally resorted to in determining the value of the land with building especially those used for business purposes is the method of capitalization of return actually received or which might reasonably be received from the land and the buildings. This was so held by the Hon'ble Supreme Court in **The State of Kerala vs. P.P. Hassan Koya AIR 1968 SC 1201.**"

**4.** Learned Reference Court passed a fresh order on 30.07.2021, with the findings, that the shop was removed in the year 1990 and the respondent-State had taken possession in 1990 and therefore, the plea for loss in business [on

the basis of alleged bills for 1993 to 2003] was negated, in following terms:

“30. The petitioner also examined PW-4 Duni Chand and proved and record Ext.PW4/A, which is a letter/reference written by PW-4 and the contents of it are that Jagdish Chand S/o Sh. Hari Dass has removed his shop and Steel & Metal Industry. To whatever compensation, the applicant is found entitled that may be given to him. The department has no objection to it.

36. As mentioned above **when the possession was already taken by the respondents in April, 1990 how on earth could the petitioner establish such an industry, purchased the raw material and earned profit.**

37. The SDO Duni Chand PW-4 examined by the petitioner also could not be believed. His testimony is not reliable, as his testimony is not in harmony with established facts. **This fact is beyond reproach that the possession of the land was already with the respondent before the establishment of industry.** When PW-3 was cross examined at length he revealed from his record that the meter earlier was commercial and only changed to industrial on 29.02.1996. **How the industry was running before that day? How the petitioner was running industry when possession is not with**

**him?** It seems that the meter was intentionally changed to industrial to enhance the amount of compensation. From the documents annexed by the petitioner along with the reference petition and duly marked in his examination in chief, it is clear that the industry was in his name and when the said industry was acquired he had complete knowledge about the proceedings. Further the letter Ext.PW1/B dated 21.02.2004 is also in contradiction to the assertion made by the petitioner that he had no knowledge about the land acquisition proceedings prior to 21.02.2005. **So the case put by the respondent assumes importance and they were right in their assertion that there was no such industry found at the spot at the time of possession.”**

5. At this stage, Learned Counsel for the appellant seeks time to assist this Court to point out any infirmity in the findings recorded by Learned Reference Court in orders dated 30.07.2021 [as in para 5 *supra*].

List on **19.06.2026.**

**May 08, 2026**  
[Shivender]

**(Ranjan Sharma)**  
**Judge**