

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

**CWP No. 10781 of 2024
Decided on 07th July 2025**

Smt. Saira Bibi

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

**For the petitioner: Ms. Seema Guleria, Advocate, vice
Ms. Anjana Khan, Advocate.**

**For the respondents: Mr. Sumit Sharma, Deputy Advocate
General.**

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

“(i) That the Writ in the nature of Mandamus may kindly be issued directing the respondents to calculate and pay the amount of compensation as per market price/value prevailing nowadays to the Extent of 00-10-00 biswas of land, 00-07-00 biswa from comprised in Khata Khatouni No.244/266, Khasra No 658, Measuring 02-11-15 Bighas and 00-03-00 biswa from Khata Khatouni No. 260/259. Khasra No. 1470/665, Measuring 00-06-04 situated at Mohal Dugrain, Tehsil Sunder Nagar, District Mandi utilized for the purpose of road construction Kanaid-Dinak road.

ii) To acquire the land or the takeover of the land 00-10-00 biswa, 00-07-00 from comprised in Khata Khatouni No 244/266, Khasra No 658, Measuring 02-11-15 Bighas and 00-03-00 from Khata Khatouni No. 260/259. Khasra No. 1470/665, Measuring 00-06-04 situated at Mohal Dugrain, Tehsil Sunder Nagar, District Mandi to the Extent of 00-10-00 biswas for the purpose of road may kindly be treated as deemed acquisition and to pay all the statutory benefits under the land Acquisition Act, 1894.”

2. The case of the petitioner is that the land, details whereof are given in the writ petition, has been utilized by the State for the purpose of the construction of a road without compensating the petitioner. Details of the land are given in Para-3 of the writ petition, which is stated to be earlier owned by the predecessor-in-interest of the petitioner, who thereafter has inherited the property. The land is stated to have been utilized for the purpose of the construction of Kanaid-Dinak Road, which construction was completed as per the petitioner in the 2009-10.

3. The reply of the respondents is to the effect that the road was constructed on the request of the predecessor-in-interest of the petitioner as well as the other villagers to provide them the road connectivity and as the

construction was carried in the larger interest of the public by spending money and as the petition has been filed after inordinate delay of 15 years, the petitioner is not entitled for any relief.

4. In rejoinder, the petitioner has reiterated the stand taken in the petition.

5. I have heard learned counsel for the petitioner as also learned Deputy Advocate General and have also carefully gone through the pleadings.

6. It is not in dispute that the land of the predecessor-in-interest of the petitioner was utilized by the State for the purpose of the construction of the land. Though, the State has taken the plea that the land was constructed on the request of the predecessor-in-interest of the petitioner and other land owners, however, save and except these bald assertions made in the writ petition, there is no material placed on record by the respondents-State from where this fact can be substantiated. There is no gift deed or any other holding out expressly made by the predecessor-in-interest or other villagers that the land was being parted away by the land owners

voluntarily with the express condition that they shall not be claiming any compensation in lieu of the same being utilized for the purpose of the construction of the road.

7. Therefore, in the light of the fact that the State has utilized the land of the predecessor-in-interest of the petitioner, this petition is disposed of with the direction that as the utilization thereof was without any consent of the land owner; let the same be acquired in accordance with law and compensation thereof be paid to the land owner/successor-in-interest of the then land owner. This direction is being passed by the Court in the light of the fact that Hon'ble the Supreme Court in umpteen numbers of cases has been pleased to hold that none can be allowed to use the land of the other without compensating the owner in accordance with law and, more so, the State which cannot be permitted to utilize the land of a private individual, even for public purpose without compensating the private individual. Taking into consideration the fact that the land was utilized some time ago as from the date when the petitioner has filed this writ petition and as per the averments made in the writ petition, the construction was

completed somewhere in between the year 2009-10, taking into consideration the judgment of the Hon'ble Supreme Court of India in Civil No.1278 of 2023, titled State of Himachal Pradesh and others versus Rajeev and another, this Court holds that the deemed date of acquisition for the present case shall be 01.01.2010. The land owners shall be entitled for compensation construing the market price of the land in question utilized by the State for the construction of the road as on 01.01.2010. This will be alongwith other statutory benefits, however, excluding the interest from 01.01.2010 upto to the date of the filing of the writ petition in this Court.

8. Petition stands disposed of in above terms. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

July 07, 2025
(Vinod)