

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

RFA No. 156 of 2014

Reserved on: 20.11.2025

Date of decision: 23.12.2025

Jawala Dass. Appellant.

Versus

The State of H.P. & others. Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellants: Mr. B.N. Mehta, Advocate.

For the respondents/State: Mr. Manoj Chauhan, Additional
Advocate General.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant, who was the petitioner (claimant) before the learned Court below (hereinafter referred to as “the petitioner/claimant”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”), against award dated 26.12.2012, passed by learned District Judge, Kinnaur Civil Division at Rampur Bushahr, H.P. (hereinafter referred to as “the learned Reference Court”), in Land Reference Petition No. 60 of 2006, whereby the petition filed by the petitioner/claimant, under Section 18 of the Act was allowed

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

and he was held entitled for enhanced compensation @ Rs.20,000/- per bigha or Rs.1000/- per biswa or Rs.26.3 per centare, irrespective of classification of the acquired land alongwith solatium, additional compensation, interest etc..

2(a). The brief facts of the case are that Notification under Section 4 of the Act was issued on 22.01.2005, which was published in Rajpatra on 09.02.2005 and in two news papers, i.e., in Amar Ujala on 20.02.2005 and in Punjab Kesari on 22.02.2005, for public purpose, i.e., for construction of Tikker-Jarol-Gahan-Nankhari-Khamadi road. Subsequently, on 26.05.2005 notification under Sections 6 and 7 of the Act was issued and the same was published in Rajpatra on 12.06.2005 and in two news papers, i.e., in Divya Himachal and Dainik Jagran on 13.06.2005. For the aforesaid public purpose, the land of the petitioner/claimant, comprised in khasra No. 593, measuring 0-00-44 hectares was acquired. During the inquiry under Section 9 of the Act, the Land Acquisition Collector found that no sale transaction took place in village Thana within one year prior to the date of publication of Notification under Section 4 of the Act. Therefore, the average price of land of Sholi, which was adjoining village, was collected. Thereafter, District Collector,

Shimla, approved the average price, which is as under:

Sr. No.	Classification of land	Rate per square meter
1.	Kayar Doyam	51.33
2.	Bakhal awal	17.01
3.	Bagicha bakhal awal faldar	66.35
4.	Bagicha bakhal villa faldar	66.35
5.	Bakhal doyam	17.03
6.	Bagicha bakhal doyam faldar	61.92
7.	Bagicha bakhal doyam vill faldar	61.92

2(b). Subsequently, on the basis of the above classification, the market value of the total acquired land and structure standing thereon was assessed to be Rs.8,70,307/- and by giving statutory benefits, total compensation of Rs.11,88,625/- was awarded, vide award No. 1 of 2004, dated 23.11.2005. The compensation of the land pertaining to the petitioner/claimant was to the extent of his share (1/4th) was determined to be Rs.138/- and on having given statutory benefits, he was awarded total compensation of Rs.188/-.

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 Land Acquisition Collector had

failed to work out the existing market value of the land, which, at the relevant time was rupees ten lacs per bigha and the petitioner had developed a plot upon the same and for that he had incurred rupees three lacs. However, no compensation was paid for such development by the Land Acquisition Collector. As per the petitioner, the acquired land was situated in the area of Sub Tehsil Nankhari, a fast developing area and it had great potentiality. The petitioner was running the business of hotel and readymade garments in the building abutting to the acquired land, which was also acquired without payment of compensation. The petitioner averred that the Land Acquisition Collector had applied the rates pertaining to a Chak, which was situated at lower elevation than the acquired land and the acquired land, being at high altitude, was having more potentiality.

4. The learned Reference Court, allowed the petition of the petitioner/claimant and held him entitled for enhanced compensation on the basis of market value of their land, which was assessed @ Rs.20,000/- per bigha or Rs.1000/- per biswa or Rs.26.3 per centare, irrespective of its classification. The petitioner was also held entitled to solatium, additional compensation, interest on the enhanced

amount of compensation etc.. Feeling still aggrieved, petitioner preferred the instant appeal under Section 54 of the Act with a prayer to allow the instant appeal and compensation be enhanced to Rs.50,000/- per bigha and for building compensation be enhanced to Rs.75,000/- from Rs.37,000/- alongwith all the statutory benefits.

5. I have heard the learned counsel for the appellant, learned Additional Advocate General for the respondents/State and carefully examined the entire records.

6. Learned counsel for the appellant contended that the impugned award is wrong and illegal, as the learned Reference Court failed to work out the existing market value of the land. He further contended that at the time of acquisition the value of the land was more than Rs.10,00,000/- per bigha and the expenditure incurred by the petitioner on the development of the site was more than Rs.3,00,000/-, but no compensation was granted for the same. He contended that the land had great potentiality and it was situated in a very fast developing area of Sub Tehsil Nankhari, which was connected to road. Lastly, he submitted that the appeal be allowed and impugned award dated 26.12.2012 passed by the learned Reference Court be

modified and enhanced compensation of Rs.50,000/- per bigha be granted and compensation on account of building be also enhanced to Rs.75,000/- from Rs.37,500/- alongwith all the statutory benefits.

7. Conversely, learned Additional Advocate General for the respondents/State, supported the impugned award. 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 led 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 & others v. 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 hypothetical 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.**
- 5. 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.”

11. 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)."*

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. In order to prove their case, the petitioners examined PW-1 Shri Krishan Lal, the then In-charge Patwari, Nankhari, who deposed that during the period from 2003 to 2006 there was no sale in Patwar Circle Nankhari, which was earlier Sholi Circle. Shri Jawala Dass (the petitioner), while appearing in the witness-box as PW-2, tendered in evidence his affidavit, Ex. PW-2/A, wherein he deposed that the acquired land was situated in Tehsil Nankhari, which was a commercial centre and its market value was not less than Rs.3,00,000/- per biswa. He further deposed that all the basic amenities, viz., school, hospital, bank etc. were there and the land had potential for tourism. He also deposed that the acquired land was leveled by him for construction over the same. He had raised five RCC pillars and a wall of stone having dimensions of 18 feet in length and 10 feet in height. He had incurred an expenditure of Rs.1,50,000/- for developing the acquired land and the developed area was 18x15 feet. He, in his cross-examination, could not produce any documentary evidence qua the amount he had spent on

developing the site/plot. PW-3 Vivek Karol, Registered Valuer, deposed that on 21.06.2006 he inspected the plot of the petitioner and prepared report, Ex. PW-3/A and map, Ex. PW-3/B.

14. On the other hand, the respondents examined Shri Kamlesh Negi, the then Assistant Engineer, HPPWD, Sub Division Nankhari, as RW-1, who tendered in evidence his affidavit, Ex. RW-1/A, wherein he deposed that the land comprised in Khasra No. 593, measuring 0-00-11 hectare was acquired for the construction of road. He further deposed there was no breast wall raised by the petitioner on the acquired land and in order to protect the land a *kucha* retaining wall had been raised. He also deposed that on the acquired land, there was no structure except two RCC columns, measuring 0.03x0.60 centimeter, which were upto the plinth level, but the same were not taken into consideration for making assessment. The petitioner was the co-owner to the extent of 1/4th share in the acquired land and he was paid total compensation of Rs.188/-. Since there was no sale transaction in village Thana, one year average price of adjoining village Sholi, for the period w.e.f. 01.09.2003 to 01.09.004 had to be applied for ascertaining

the market value of the acquired land. This witness deposed that Nankhari was a small hub and not a developed area and there was no scope of its expansion, as most of its area being DPF.

15. The learned Reference Court held the petitioner entitled for compensation on the basis of market value of his land, which was assessed @ Rs.20,000/- per bigha or Rs.1000/- per biswa or Rs.26.3 per centare, irrespective of its classification and the petitioner was also held entitled for compensation @ Rs.37,500/- for developing the acquired land/area and for raising structure thereon.

16. The onus was upon the petitioner to prove the market value of the land at the time of the issuance of the notification under Section 4 of the Act. However, no cogent and satisfactory evidence has been led by the petitioner in this respect. The perusal of the record shows that there was no sale transaction during the period 2003 to 2006 in Patwar Circle, Nankhari, which is clear from the statement of PW-1- Krishan Lal, the then In-charge Patwari Nankhari and in the absence of any sale transaction, the learned Reference Court based its award on the basis of the land reference petition pertaining to the same Award No. 1 of 2004, dated

23.11.2005, particularly Land reference Petition No. 63 of 2006, titled as Brij Lal & others vs. State of H.P. and & others, wherein the learned Reference court had held that at the relevant time, the market value of the acquired land was not less than Rs.20,000/- per bigha or Rs.1000/- per biswa or Rs.26.3 per centare, irrespective of its classification. As the land of the petitioner was also acquired for the construction of road and it was also a subject matter of Award No. 1 of 2004, therefore, in the absence of any other direct evidence, the learned Reference Court rightly held the market value of the acquired land of the petitioner at the aforesaid rate of Rs.20,000/- per bigha or Rs.1000/- per biswa or Rs.26.3 per centare, irrespective of its classification.

17. So far as the compensation for the structure is concerned, the petitioners have examined PW-3 Shri Vivek Karol and after placing reliance upon his valuation report, Ex. PW-3/A, the learned Reference Court rightly awarded the compensation to the petitioner to the tune of Rs.37,500/- (Rs.20,000/- + Rs.10,000/- + Rs.7500/-) for developing the plot and also for raising construction thereon.

18. Hence, in view of what has been discussed hereinabove and also considering the above stated settled

principles of law, no interference is required in the impugned award, dated 26.12.2012, passed by learned District Judge, Kinnaur Civil Division at Rampur Bushahr, H.P..

19. The instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed. Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

23rd December, 2025
(virender)