

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

MA No. 489/2013

Date of pronouncement: 08.07.2026

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Union of India

.....Applicant(s)/Appellant(s)

Through :- Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC

v/s

Zamindars of Villages, Ladwal and Others

.....Respondent(s)

Through :- Mr. Bari Abdullah, Advocate
Mr. Ravi Abrol, Advocate
Mr. Anil Sethi, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

1. The Union of India, being the intending party, has challenged the Award dated 30.12.2011 passed by the learned Principal District Judge, Ramban (hereinafter referred to as "the Reference Court") in the reference titled *Zamindars of Village Ladwal v. Collector, Land Acquisition, Doda*. By the impugned award, the Reference Court enhanced the compensation for the acquired land to Rs. 1,00,000/- per kanal uniformly for all categories of land. The appellant has also assailed the Award dated **08.04.1999** passed by the Additional Deputy Commissioner, Doda, acting as the Land Acquisition Collector.
2. Pursuant to Notification dated 27.07.1989, issued for the construction of the bypass road in the Batote area of the Jammu-Srinagar National Highway, land measuring **77 kanals and 18 Marlas** was acquired,

comprising **54 kanals and 1 Marla** in Village Batote, **23 kanals and 6 Marlas** in Village Ladwal, and **4 Marlas** in Village Tringla. Consequent thereto, the Land Acquisition Collector passed the Award dated **08.04.1999**, determining compensation at the following rates:

- a. Gair Mumkin land under shops: **Rs. 45,000/- per kanal;**
- b. Culturable land: **Rs. 40,000/- per kanal;**
- c. Banjar Qadeem: **Rs. 25,000/- per kanal;** and
- d. Other Gair Mumkin land: **Rs. 10,000/- per kanal.**

The aforesaid rates were determined on the basis of the report submitted by the Tehsildar (Settlement), Ramban, who assessed the average sale price of land situated within the limits of the Notified Area Committee (NAC), Batote, **at Rs. 44,295/- per kanal.**

3. The appellant contends that the respondent-landowners neither produced any evidence before the Land Acquisition Collector nor adduced any evidence during the reference proceedings before the Reference Court. It is further submitted that the compensation was enhanced to Rs. 1,00,000/- per Kanal, irrespective of the nature or classification of the land, without impleading or issuing notice to the appellant, who was the intending party. Consequently, the appellant was denied an opportunity of being heard, rendering the impugned award contrary to law and in violation of the principles of natural justice.
4. The appellant further submits that the Reference Court placed reliance upon sale deeds relating to insignificant extents of land measuring only a few Marlas, which were neither comparable in nature nor proximate in time to the acquisition in question. Such sale instances could not have

formed a valid basis for determining the prevailing market value of the acquired land. Consequently, the enhancement of compensation is contrary to the settled principles governing determination of market value under the Land Acquisition Act.

5. It is also the appellant's case that the Reference Court failed to determine the market value of the acquired land with reference to the relevant period preceding the acquisition, particularly the transactions occurring within the three years prior to the issuance of the acquisition notification. By ignoring this settled principle and relying upon irrelevant material, the Reference Court committed a manifest error of law, rendering the impugned award arbitrary, perverse, and unsustainable.
6. Respondents, on the other hand, claim that the award has been rightly drawn and that the appellant was not a necessary party before the Reference Court, it was argued that once the Collector had knowledge of the reference proceedings, the appellant cannot feign ignorance inasmuch as assessment of market value has been made keeping in view the purpose for which the land was utilized. Since there were 3 different types of land, the Collector had for better adjudication of the rights of the parties proceeded to apply uniform market rate of the land which was in accordance with law.
7. Heard and considered the record.
8. A perusal of the record of the Reference Court reveals that the reference proceedings were initiated on an application filed by respondent No. 1 before the Land Acquisition Collector. Besides the said reference,

separate applications were also filed by Amanullah and Mohd. Shafi in their individual capacities seeking a reference to the District Court. The Reference Court held that the applications preferred by Amanullah and Mohd. Shafi were not maintainable, whereas the reference filed by respondent No. 1 was within the prescribed period of limitation and, therefore, maintainable in accordance with law.

9. During the course of the reference proceedings, the Reference Court was apprised of the following registered sale deeds executed between the years 1992 and 2000:-

(i) Sale deed dated 27.07.2000, executed by Pawan Kumar in favour of Raj Nath and Pran Nath, whereby 6 marlas of land were sold for a consideration of Rs.78,000/-.

(ii) Sale deed dated 22.05.1992, executed by Mohd. Ashraf in favour of Mohd. Akram, whereby 10 marlas of land were sold for a consideration of Rs.50,000/-.

(iii) Sale deed dated **03.08.1994**, executed by Mohd. Aslam in favour of Partap Bhushan Katoch, whereby **5 marlas** of land were sold for a consideration of **Rs.25,000/-**.

(iv) Sale deed dated **22.05.1992**, executed by Mohd. Ashraf in favour of Mohd. Bashrat Malik, whereby **10 marlas** of land were transferred for valuable consideration.

(v) Sale deed dated **19.09.2000**, executed by Anuj Puri in favour of Tanveer Ahmed Kichloo, whereby **12 marlas** of land were sold for a consideration of **Rs.1,10,000/-**.

All the aforesaid sale deeds were registered in the office of the Sub-Registrar, Batote, within whose territorial jurisdiction the acquired land was situated.

10. Upon consideration of the material placed before it, the Reference Court observed that although the Land Acquisition Collector had awarded different rates of compensation depending upon the nature and classification of the acquired land, the lands covered by the aforementioned sale deeds were situated in close proximity to the acquired land and were comparable in nature. The Reference Court further held that certified copies of the registered sale deeds were admissible in evidence under Section 51-A of the Land Acquisition Act, 1894, and carried a statutory presumption regarding the genuineness of their contents. Relying upon the said sale instances, the Reference Court determined the market value of the acquired land at Rs.1,00,000/- per kanal, equivalent to Rs. 5,000/- per marla, irrespective of the classification of the land. The record, however, indicates that the present appellant, though the intending department, was not impleaded as a party to the reference proceedings.

11. Learned counsel for the appellant, placing reliance upon the judgment of this Court in *National Hydro Electric Power Corporation Ltd. & Another v. Gh. Rasool Hamal & Others*, **2000 SLJ 114**, contended that since the appellant, being the intending department, was not impleaded as a party to the reference proceedings, the award passed by the Reference Court is not binding upon it and cannot be enforced against it. The respondents, on the other hand, argued that once the Land Acquisition Collector had

notice of the reference proceedings, the appellant must be deemed to have had constructive knowledge thereof. The said contention, however, stands negated by the aforesaid judgment, wherein this Court held that the mere fact that the Collector was a party to the reference proceedings does not justify the presumption that the intending department had knowledge thereof. Being an interested party, whose financial liability was directly affected, the intending department was entitled to notice of the reference proceedings and an opportunity of being heard.

12. Learned counsel for the respondents further submitted that while making the reference to the District Court, the Land Acquisition Collector had intimated the appellant regarding the pendency of the dispute relating to the determination of the market value of the acquired land and had also informed it that the amount deposited by the appellant had been directed to be deposited before the Reference Court. Although the submission appears attractive at first blush, the record does not substantiate the same. No material has been placed on record to establish that any such communication was in fact issued to or received by the appellant.
13. Learned counsel for the appellant further contended that even assuming, for the sake of argument, that the appellant had knowledge of the reference proceedings, the market value determined by the Reference Court is excessive and legally unsustainable. Reliance was placed upon the decision reported in **2017 (3) JKJ 101**, wherein it was held that where the market value is determined on the basis of sale deeds pertaining to small parcels of land, the Court is required to make appropriate

deductions before applying such rates to a large tract of acquired land. It was accordingly argued that the Reference Court erred in adopting the rates reflected in the sale deeds without making any deduction for development or other relevant factors. It was also submitted that the road alignment in question had originally been under the control of the local department and was subsequently taken over by the appellant, which aspect ought to have been taken into consideration while assessing compensation.

14. Having heard learned counsel for the parties and upon consideration of the record, this Court finds that the appellant was not served with notice of the reference proceedings, nor did the Reference Court take any steps to ensure that the intending department was impleaded or informed of the pendency of the reference. Nevertheless, it cannot be overlooked that the Land Acquisition Collector was acting in his official capacity throughout the acquisition proceedings and that the appellant, being the beneficiary Government agency for whose purpose the acquisition had been undertaken, cannot ordinarily be presumed to have remained completely unaware of the acquisition proceedings.

15. Having said so, since the appellant has also assailed the findings of the Reference Court with regard to the assessment of the market value of the acquired land, and in view of the submissions advanced by the learned Deputy Solicitor General of India, the objection relating to non-service of notice upon the appellant appears to have been given up during the course of arguments. Accordingly, this Court proceeds to examine the

correctness of the impugned award on the basis of the evidence that was produced before, and relied upon by, the Reference Court.

16. In 2017 (3) JKJ 101, the Land Acquisition Collector had determined compensation by awarding different rates for different categories of land, having regard to their nature and classification. A similar methodology was adopted by the Collector in the present case; whereby varying rates of compensation were awarded depending upon the nature and quality of the acquired land. Aggrieved by the manner in which the Collector had assessed compensation, the landowners in that case sought a reference under Section 18 of the Land Acquisition Act, 1894. The learned Principal District Judge, by judgment and decree dated **29.08.2008**, enhanced the compensation to **Rs. 1,00,000/-** per kanal, together with 15% Jabrana (solatium) and interest at the rate of 6% per annum from the date of taking possession. The said judgment was challenged before this Court, which observed as follows:-

"The learned Principal District Judge, Ramban, has assigned no reasons for enhancing the market value uniformly in respect of the entire acquired land, irrespective of its nature and classification."

17. This Court, however, upheld the award after finding that the market value had been determined by applying an appropriate deduction of **15%** to the value reflected in the exemplar sale deeds, thereby accounting for the difference between the small parcels covered by the sale transactions and the larger extent of land acquired under the notification.

18. The Supreme Court, in *Trishala Jain & Others v. State of Uttaranchal & Others*, **AIR 2011 SC 2458**, while considering the principles governing the determination of compensation payable for acquired land under the Land Acquisition Act, 1894, authoritatively laid down the law regarding the methodology to be adopted by the Reference Court in assessing the market value of the acquired land. The Court held as under:

“Under the Act, as settled by various judgments of this Court, there are different methods of computation of compensation payable to the claimants, for example it can be based upon comparable sale instances, awards and judgments relating to the similar or comparable lands, method of averages, yearly yields with reference to the revenue earned by the land etc. Whatever method of determining the compensation is applied by the Court, its result should always be reasonable, just and fair as that is the purpose sought to be achieved under the scheme of the Act. For attaining that purpose, application of some guesswork may be necessary but this principle would have hardly any application in a case of no evidence. In other words, where the parties have not brought on record any evidence, then the Court will not be in a position to award compensation merely on the basis of imagination, conjecture etc.

These precedents clearly demonstrate that the Court may apply some guesswork before it could arrive at a final determination, which is in consonance with the statutory law as well as the principles stated in the judicial pronouncements. As already noticed, the guesswork has to be used for determination of compensation with greater element of caution and the principle of guesstimation will have no application to the case of ‘no evidence’. This principle is only intended to bridge the gap between the calculated compensation and the actual compensation that the claimants may be entitled to receive as per the facts of a given case to meet the ends of justice. It will be appropriate for us to state certain principles controlling the application of guesstimate:

- (a) Wherever the evidence produced by the parties is not sufficient to determine the compensation with exactitude, this principle can be resorted to.

(b) Discretion of the Court in applying guesswork to the facts of a given case is not unfettered but has to be reasonable and should have a connection to the data on record produced by the parties by way of evidence. Further, this entire exercise has to be within the limitations specified under Sections 23 and 24 of the Act and cannot be made in detriment thereto.

Applying these principles to the facts of the present case, we have to take recourse to the 'principle of guesstimation' inasmuch as it is essential for fixation of fair market value of the land which shall be the basis for determining the compensation payable to the claimants. Now, we will discuss the evidence led by the parties in that behalf."

19. The Supreme Court, after considering the facts and circumstances of the case, observed that the Reference Court had determined the market value by applying a deduction of 20% to the exemplar sale price while awarding compensation. The High Court, however, further reduced the compensation by increasing the deduction from 20% to 33.33%. The Supreme Court, taking into account the peculiar facts and circumstances of the case and applying the principle of a reasonable guesstimate, held that a deduction of 10% would meet the ends of justice and accordingly determined the market value of the acquired land on that basis.
20. Placing reliance upon the aforesaid decision, learned counsel for the appellant submitted that the same principle ought to be applied in the present case, particularly since the Reference Court had determined the market value solely on the basis of sale instances pertaining to small parcels of land without making any appropriate deduction.
21. Upon a careful examination of the record, this Court finds that, of the sale deeds relied upon by the Reference Court, the sale deeds dated 27.07.2000 and 19.09.2000 were executed subsequent to the passing of

the final award **dated** 08.04.1999 and, therefore, could not have been taken into consideration for determining the market value of the acquired land. However, the sale deeds dated 22.05.1992 **and** 03.08.1994, being proximate in point of time to the acquisition proceedings, constitute relevant exemplars for determining the prevailing market value. The acquisition in question pertains to **77 kanals and 18 marlas** of land comprising different khasra numbers situated in three villages falling within the erstwhile Tehsil Ramban, acquired for the construction of the Batote Bypass Road. The acquisition was thus for a public infrastructure project, namely the construction of a road, and not for any residential or commercial development.

22. The Reference Court, on appreciation of the evidence on record, determined the market value of the acquired land at **Rs. 5,000/- per marla**, equivalent to **Rs. 1,00,000/- per kanal**. However, the sale instances relied upon for such determination pertained to transfers of merely 5 marlas **and** 10 marlas of land, which constituted very small and insignificant parcels in comparison to the extensive tract of land acquired under the notification.
23. In terms of Section 23 of the Land Acquisition Act, 1894, one of the primary considerations for determining compensation is **the** market value of the land as on the date of publication of the notification under Section 4 of the Act. The expression "market value" denotes the price that a willing purchaser would pay to a willing seller for the property, having due regard to its existing condition, location, potential, and all attendant

advantages as on the relevant date. The claimants while seeking reference had sought enhancement of compensation to Rs. 80,000/- to 1.00 lac per kanals.

24. In the absence of any oral or documentary evidence relating to the sale of a large extent of land comparable to the acquired property, the Reference Court appears to have relied upon sale transactions involving small parcels of land while determining the market value of the substantially larger tract acquired under the notification. The claimants did not adduce any evidence to establish the market value of lands contiguous or comparable to the acquired land. In such circumstances, sale instances pertaining to land situated in the same village may furnish a reasonable basis for determining the market value, provided suitable adjustments are made after taking into account the positive and negative factors affecting the comparability of the lands.
25. In *Trishala Jain & Others v. State of Uttaranchal & Others* (supra), the Supreme Court unequivocally held that although the determination of market value necessarily involves an element of reasonable guesswork, the authority entrusted with the assessment of compensation is under a legal obligation to arrive at its estimate on the basis of objective standards and accepted principles governing valuation of acquired land.
26. Likewise, in 2017 (3) JKJ 101, this Court upheld the deduction of 50% applied by the Reference Court while determining the market value on the basis of exemplar sale deeds. In the present case also, the acquired land

comprises different categories of land, yet the Reference Court assessed the market value uniformly without duly considering the nature, classification, and topography of the acquired land. Once the acquired land consisted of different categories and classifications, it was incumbent upon the Reference Court to make appropriate deductions and adjustments while determining compensation so as to ensure that the amount awarded was fair, just, and reasonable in the facts and circumstances of the case.

27. In the facts and circumstances noticed hereinabove, this Court is of the considered opinion that the learned Reference Court committed an error in determining the market value of the acquired land uniformly at Rs.1,00,000/- per kanal without making any appropriate deduction on account of the exemplar sale deeds relating to very small parcels of land. The sale transactions relied upon by the Reference Court pertained to transfers of 5 marlas and 10 marlas only, whereas the acquisition in question covered 77 kanals and 18 marlas spread over different khasra numbers and comprising different categories of land acquired for the construction of the Batote Bypass Road. The settled principles governing determination of market value require that where exemplar sale deeds relate to small developed plots, suitable deductions must be made before applying such rates to a substantially larger extent of acquired land.

28. In that view of the matter, placing reliance on **Trishala Jain's** case (supra) and by applying deduction at the rate of 10%, the compensation for the acquired land is assessed at Rs.90,000/- (Rupees Ninety thousand)

per kanal and that shall be paid to the claimants. To that extent the Award stands modified. Rest of the award is maintained enabling the claimants to receive the compensation in terms of the aforesaid. In case the awarded amount stands deposited before this Court, the same shall be released in favour of the claimants. The deficient amount, if any, along with interest as accrued in terms of the award shall be deposited by the appellant before the Reference Court within three months enabling the Reference Court to proceed for release of the awarded compensation in favour of the claimants. A copy of this judgment shall be notified to the Reference Court for compliance.

29. **Disposed of.**

JAMMU
08.07.2026
Manik

