

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

**RFA No. 138 of 2009
alongwith RFAs No. 139 to
144 of 2009**

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1. RFA No. 138 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Gian Chand & others

.....Respondents.

2. RFA No. 139 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Yash Pal & others

.....Respondents.

3. RFA No. 140 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Sucha & others

.....Respondents.

4. RFA No. 141 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Lachhman (since deceased) through LRs & others

.....Respondents.

5. RFA No. 142 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Karam Chand & others

.....Respondents.

6. RFA No. 143 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Maina (since deceased) through her LRs & others

.....Respondents.

7. RFA No. 144 of 2009:

Himachal Pradesh State Industrial Development Corporation
Ltd.

.....Appellants.

Versus

Joginder Singh & others

.....Respondents.

Coram

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

¹ *Whether approved for reporting?* Yes.

(In all the appeals)

For the appellant(s): Mr. Ajay Kumar, Senior
Advocate, with Ms. Vanshika
Sharma, Advocate.

For the private respondents: Ms. Devyani Sharma, Senior
Advocate, with Mr. Shivam
Sharma, Advocate.

For respondents/State: Mr. Balvinder Singh, Deputy
Advocate General.

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

Sushil Kukreja, Judge.

Since the instant appeals are offshoots of common award passed by learned Additional District Judge, Solan, H.P. Camp at Nalagarh (hereinafter referred to as “the learned Reference Court”), they are taken up together for consideration and disposal.

2. The instant appeal has been preferred by the appellant-Himachal Pradesh State Industrial Development Corporation (HPSIDC), respondent No. 2 before the learned Reference Court (hereinafter referred to as “the appellant”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 08.04.2009, passed by learned Additional District Judge, Solan, H.P. Camp at Nalagarh (hereinafter referred to as “the learned Reference Court”) in Reference Petitions No. 4-NL/4 of 2008/06 to 10-NL/4 of 2008/067, whereby the reference petitions filed by the petitioners/claimants (some of the respondents herein) under Section 18 of the Act, were allowed.

3. The facts giving to the instant appeals are that the petitioners laid challenge to Award No. 3 of 2004, passed by Land Acquisition Collector (SDO) Nalagarh, District Solan,

H.P.. It was averred by the petitioners that vide notification dated 07.01.2004, which was issued under Section 4 of the Act, the land of the petitioners, situated in village Billanwali Labana, Tehsil Nalagarh, was intended to be acquired by HPSIDC for public purpose, i.e., development of industrial area. The aforesaid notification was published in H.P. Rajpatra on 31.01.2004 and published in Punjab Kesari and Indian Express on 04.02.2004. Subsequently, notification under Sections 6 & 7 was issued on 20.09.2004, whereby land, i.e., measuring 59-9 bighas, comprised in khasra No. 395(00-13), 396(00-10), 397(04-04), 398(04-03) and 399(15-12), katas 5, total measuring 18-3 bighas, was deleted and the aforesaid notification was published in H.P. Rajpatra on 20.10.2004. Ultimately, the Land Acquisition Collector announced the award.

3(a). The petitioner being dissatisfied with the award passed by the Land Acquisition Collector preferred reference petitions before the learned Reference Court.

4. The learned Reference Court, after hearing the learned counsel for the parties and after examining the entire record, allowed the reference petitions of the petitioners/claimants and they were held entitled to

compensation of the acquired land @ Rs.8,45,200/- per bigha with all the statutory benefits, i.e., solatium compulsory acquisition allowance and interest. Hence, the instant appeals preferred by the appellant (HPSIDC).

5. The learned Senior Counsel for the appellant(s) vehemently contended that while passing the impugned award the learned Reference Court had erred in enhancing the amount of compensation by determining the market value of the land in an arbitrary manner. He further contended that the learned Reference court had also erred in not applying the principle of deduction to the determined market value of the acquired land, despite the fact that various development activities had to be carried-out when the land was acquired for the development of the industrial area. Therefore, he submitted that the impugned award be set-aside by allowing all the instant appeals.

6. On the other hand, the learned Senior Counsel for the privates respondents (petitioners/claimants) supported the impugned award by submitting that the same is result of proper appreciation of both law and facts and does not need any interference by this Court. The appeals,

being without merit, be dismissed.

7. I have heard the learned Senior Counsel for the appellant(s), learned Senior Counsel for the private respondents (petitioners/claimants), learned Deputy Advocate General for the respondents/State and carefully examined the entire records.

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 & 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

aforsaid 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 (Dead) through LRs & others***

vs. State of Haryana & another, (2008) 2 Supreme Court

Cases 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 the instant reference petitions, one of the petitioners, namely Shri Gurdev Singh, appeared in the witness-box as PW-1 and tendered in evidence his affidavit, Ex. PW-1/A, wherein he has reiterated almost all the averments made by him in the reference petition. Shri Jagat Ram appeared in the witness-box as PW-2 and he tendered in evidence his affidavit, Ex. PW-2/A and sale deed, Ex. PW-2/B. This witness deposed that he alongwith other shareholders had sold 9.10 bighas of land for a sum of Rs.55,57,500/- and sale deed to this effect was executed on 15.12.2004. Shri Ranjeet Singh appeared in the witness-box as PW-3 and he also tendered in evidence his affidavit, Ex. PW-3/A. This witness deposed that on 11.02.2006 in an open auction, HPSIDC had sold a shop for Rs.5,30,000/- and the area of the shop was 34 square meters. PW-4 Shri

Santosh Kumar, the then General Manager in M/s Thermal Engineering Ltd., deposed that the company had purchased 9-10 bighas of land for the installation of factory for consideration of Rs.55,57,500/-, vide sale deed No. 2968, which was executed on 20.09.2004 and registered on 15.12.2004, copy of which is Ex.PW-2/B. PW-5 Shri Amar Pal Bhardwaj, the then Senior Accountant HPSIDC, Shimla, deposed that 59.9 bighas of land, i.e., land involved in the reference petitions, was acquired. He has further deposed that after acquisition of the land, the acquired area was auctioned on 24th October, 2005 and 11th February, 2006. This witness had produced the record qua the auction, which is Ex. PW-5/A. He also deposed that no plots or shops were kept reserved for the land owners from whom the land was acquired.

14. On the other hand, respondents have examined Shri Daleep Singh, the then Patwari, who appeared in the witness-box as RW-1. He had produced on record one year average price pertaining to Mauja Billanwali Labana, Tehsil Baddi, District Solan, dated 01.03.2003, Ex. RW-1/A, and Ex.RW-1/B, which are stated to be correct as per the original. He has also produced copy of Award No. 3/04, which is

Ex.RW-1/C. This witness had also produced copy of sale deed No. 1508, dated 28.06.2004, Ex. RW-1/D, copy of jamabandi, Ex.RW-1/E and copy of one year average price, Ex.RW-1/F.

15. Now the question which arises for consideration before this Court is as to how the market value of the land in the present case is to be assessed in view of the available evidence on record. Sale deed, Ex. PW-2/B, relied upon by the petitioners and the sale deed, Ex.RW-1/D, placed on record by the respondents are post notification sale deeds and would not be correct exemplar, which could be taken into consideration to assess the market value. The one year average price pertaining to Mauja Billanwali Labana, Tehsil Baddi, District Solan has been adduced in evidence as Ex.RW-1/B, the perusal of which shows that the highest amount of the average of the best quality of the land is in the sum of Rs.8,45,200/- per bigha.

16. The fair, reasonable and adequate market value of the acquired land is always a factual question depending upon the evidence adduced and probabilities arising in each case. It is the attending facts and circumstances that would furnish guidance to arrive at the market value of the acquired

land and it is equally relevant to consider the potentiality of the acquired land or any advantageous features or any special circumstances available in each case. Ordinarily, guesswork is to be kept at bay while assessing the market value of the acquired land, the feats of imagination should be avoided and assessment of evidence in mechanical manner eschewed but at the same time bona fide and genuine sale transactions are guiding factors in evaluating the evidence.

17. However, a situation may arise where there may not be guiding sale instances. In such an eventuality reliance upon some guess work is inevitable. The Court in such circumstances has to balance the equities inasmuch as it has to ensure that the landowners are paid adequate compensation for their acquired land as they have been deprived of their property but at the same time, unnecessary and very heavy burden should not be put on the public exchequer in the form of compensation by misplacing reliance on sympathies or undue emphasis on the claimants' right to compensation.

18. In the instant case, as observed earlier, no sale instance is available to determine the market value. In similar circumstances, a co-ordinate bench of this Court in **Dinesh**

Chhetry v. State of H.P. & others, RFA No.156 of 2003,

and connected matters, decided on 20.8.2007, has uniformly awarded the amount of compensation on the basis of the highest amount of the average of the best quality of the land determined by the Collector. The Court observed as under:

“The learned Advocate General submitted that keeping in view the ratio of law laid down by this Court in LAC, Solan and another vs. Bhoop Ram, reported in 1997 (2) Sim.L.C. 229, the highest amount of compensation awarded by the Collector should be uniformly applied to all the landowners whose land stand acquired in terms of the awards in question and are subject matter of the present appeals regardless of classification of the land as the purpose of acquisition is same and similar. Therefore, according to him all the claimants in the present appeal whose land has been acquired for the construction of Kumarhatti – Oachghat road should be awarded Rs.1,33,333.20 or say Rs.1,33,330.00 per bigha. His submission is based on the fact that there is enough evidence on record to show that the acquired land in different villages are having the same advantage and potentiality of increase in value due to its location in and around the areas where the land is put to commercial use.

In Bhoop Ram (supra), this Court has held as under:

“The Land Acquisition Collector and the District Judge have determined the market value at a lesser rate for the acquired land, which was classified as Bangar Doem, Bangar Kadim, Ghasni, Charand and Gair Mumkin but in our view the classification of acquired land for the agricultural purpose is not relevant looking to the common purpose of acquisition for the construction of road and uniform rate of Rs.40 per sq. metre or Rs.30,000/- per Bigha should be awarded irrespective of the classification of the acquired land.”

The aforesaid judgment has been consistently followed by the Court and in RFA No.2 of 1995, titled Phul Singh vs. LAC, this Court has held that if the land has potential for setting up of industry, the whole of it, irrespective of the kind and class of the land can legitimately be presumed to be same market value.

In my view, the submission of the learned Advocate General is extremely fair and totally in consonance with the principles of law laid down by the Apex Court.

Perusal of the some of the award shows that the

Court below has already held that even if one category of the land is better than the other category for the agricultural purposes, however, in view of the probable further use of the land for the public purpose, the land of different categories would be deemed to be having similar potentiality and as such similar rate is required to be awarded uniformly irrespective of the category of land. In these cases, I am in agreement with the view taken by the Court below and do not find any infirmity in the decision so arrived. The amount offered by the Collector for the best value of the land i.e. Rs.1,33,330/-, therefore, is fair. Needless to add that I have not gone into the various exhibited sale deeds for determining the just, fair and reasonable market value of the acquired land in view of the submission made by the learned counsel for the parties at the Bar."

19. After considering the rival submissions made by the learned counsel appearing for the parties, in view of the aforesaid decision rendered by a co-ordinate bench of this Court in ***Dinesh Chhetry's*** case (supra), this Court is of the opinion that in determining the market value, the learned Reference Court has rightly relied upon highest amount of the average of the best category of the land as assessed by the District Collector in the sum of Rs.8,45,200/- per bigha as per one year average price pertaining to Mauja Billanwali Labana, Tehsil Baddi, District Solan adduced in evidence as Ex.RW-1/B.

20. The learned Senior Counsel for the appellant(s) submitted that the learned Reference court had erred in not applying the principle of deduction to the determined market value of the acquired land, despite the fact that various

development activities had to be carried-out when the land was acquired for the development of the industrial area. Now, the question which arises for consideration before this Court is as to whether the deduction is to be applied in the facts and circumstances of the instant case, especially when the land has been acquired for the development of the industrial area.

21. It is settled position of law that normally deduction is to be applied on account of carrying out development activities like providing roads or civic amenities such as electricity, water, etc. when the land has been acquired for construction of residential, commercial or institutional projects. In ***Lal Chand v. Union of India, (2009) 15 SCC 769***, the Supreme Court indicated that percentage of deduction for development to be made for arriving at market value of large tracts of undeveloped agricultural land with potential for development can vary between 20 and 75 per cent of the price of developed plots and observed:

"14. The 'deduction for development' consists of two components. The first is with reference to the area required to be utilized for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilize around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a

developed layout, which includes the cost of leveling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.

16. *On the other hand, if the residential plot is in an unauthorized private residential layout, the percentage of "deduction for development" may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorized layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots.*
17. *The "deduction for development" with reference to prices of plots in authorized private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout.*
18. *The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more as contrasted with the size of residential plots measuring 100 sq m to 20 sq m), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of an industrial plot may range only between 45% to 55% as contrasted from 65% to 75% for residential plots.*
19. *If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (note the percentages mentioned above are tentative standards and subject to proof to the contrary.)*
20. *Therefore the deduction for the 'development factor' to be made with reference to the price of a small plot in a developed layout, to arrive at the cost of undeveloped land, will be for more than the deduction with reference to the price of a small plot in an unauthorized private layout or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure."*

22. In the case of ***Trishala Jain & another vs. State***

of Uttaranchal & another, reported in **(2011) 6 SCC 47**, the Hon'ble Supreme Court held that deduction on account of expenses of development of the sites could vary from 10% to 86.33% depending on the nature of the land, its situation, the purpose and stage of development. Their lordships further held that the cases where the acquired land itself is fully developed and has all essential amenities, before acquisition, for the purpose for which it is acquired requiring no additional expenditure for its development, falls under the purview of cases of 'no deduction'. It has been held as follows:

- "41. *The cases where the acquired land itself is fully developed and has all essential amenities, before acquisition, for the purpose for which it is acquired requiring no additional expenditure for its development, falls under the purview of cases of 'no deduction'. Furthermore, where the evidence led by the parties is of such instances where the compensation paid is comparable, i.e. exemplar lands have all the features comparable to the proposed acquired land, including that of size, is another category of cases where principle of 'no deduction' may be applied. These may be of the cases where least or no deduction could be made. Such cases are exceptional and/or rare as normally the lands which are proposed to be acquired for development purposes would be agricultural lands and/or semi or haphazardly developed lands at the time of issuance of notification under Section 4(1) of the Act, which is the relevant time to be taken into consideration for all purposes and intents for determining the market value of the land in question.*
44. *It is thus evident from the above enunciated principle that the acquired land has to be more or less developed land as its developed surrounding areas, with all amenities and facilities and is fit to be used for the purpose for which it is acquired without any further expenditure, before such land could be considered for no deduction. Similarly the sale instances even of smaller plots could be considered for determining the market value of a larger chunk of land with some deduction unless, there was comparability in potential, utilization, amenities and infrastructure with*

hardly any distinction. On such principles each case would have to be considered on its own merits.

45. *This Court, depending on the facts and circumstances of each given case, has taken the view that deduction on account of expenses of development of the sites could vary from 10% to 86.33% depending on the nature of the land, its situation, the purpose and stage of development. Reference can be made to the cases of K.S. Shivadevamma v. Assistant Commissioner and Land Acquisition Officer [(1996) 2 SCC 62], Ram Piari v. Land Acquisition Collector, Solan [(1996) 8 SCC 338], Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona [(1988) 3 SCC 751], Hasanali Walim Chand (Dead) by L` v. State of Maharashtra [(1998) 2 SCC 388]."*

23. Hon'ble Supreme Court in the case of ***Union of India vs. Raj Kumar Baghal Singh & ors.***, reported in ***(2014) 10 SCC 422***, has held that deduction towards development costs depends on individual fact situations and in this case their lordships have upheld deduction of 20%. It has been held as follows:

- "9. *We have considered the rival submissions. Before considering the merits of the rival contentions, we consider it appropriate to refer to the discussion on the issue by the High Court which is as follows:- "In the present case, situation is altogether different. While deciding issue regarding cut, referred to above, argument of counsel for the Union of India that cut imposed is required to be enhanced is also liable to be rejected. In view of situation the land under acquisition, as referred to above, cut imposed to the extent of 20% was perfectly justified. Counsel for the Union of India has tried to support his argument by citing various judgments but no benefit of those judgments can be extended to Union of India because at the time when matter was argued before Additional District Judge, no serious dispute was raised by Union of India regarding potential value of the land under acquisition. No evidence was led to show that the land acquired had no potential for developing it into residential or commercial area. Argument to impose higher cut was rightly rejected by the learned Single Judge, after taking note of evidence on record.*

Argument of the counsel for the Union of India that since the land was situated at a distance of 1 to 1-1/2 kms of municipal limits, as such, higher cut be imposed, is not justified, in view of evidence on record. It had come in evidence that the land under acquisition was situated next to the municipal limits and was situated very near to golf

course. In view of this, no case is made out for further cut as prayed for."

24. In the case on hand, the perusal of the record reveals that the land has been acquired for public purpose, i.e., for the development of industrial area. PW-5, the witness of the petitioners themselves admitted in cross examination that a sum of Rs1,52,08,353/- was spent on the development of the acquired land. Therefore, in view of the facts and circumstances of the instant case, it would be appropriate if 10% of the amount as development charges is deducted from the aforementioned value of the acquired land i.e. Rs.8,45,200/- per bigha. After deduction of 10% of the amount as development charges, the market value of the acquired land is determined @ Rs.7,60,680/- per bigha.

25. As observed in the preceding para, the land has been acquired as the single unit for the public purpose, i.e., for the development of industrial area. It is a settled law that where the entire area is similarly situated, the value of the land under acquisition is to be assessed as a single unit irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter. In ***Gulabi & etc. vs. State of H.P., AIR 1998 HP 9***, it has been held as

under:-

- “11. As a result of this discussion it is held that the market value of the land on the date of acquisition is Rs.4,000/- per biswa. In this context it is further held that the value of the land under acquisition is to be assessed irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter, Consequently, the appellants are held entitled to compensation at the rate of Rs. 4,000/- per biswa uniformly for all qualities of land and it is ordered accordingly. In taking this view, we are guided by the judgment of the Hon"ble Apex Court reported in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, and the relevant abstracts from the said judgment are as under (paras 7, 11, 13):**

“In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant Notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in a important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.

The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

The proposition that large area of land cannot possibly fetch a price at the same rate at which small

plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.

In the instant case it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. Therefore, no deduction could be made on ground, that large tract of land is required."

26. In ***Land Acquisition Officer vs. L Kamalamma (1998) 2 SCC 385, H.P. Housing Board vs. Ram Lal & others 2003(3) Sim.L.C. 64, Executive Engineer & Anr. Vs. Dilla Ram Latest HLJ 2008 (HP) 1007***), it was held that when the entire land acquired belongs to one block, classification of the same into different categories is not reasonable. In case acquired land is to be used/developed as a single unit for a purpose having no relevancy with quality of land, the classification of land completely loses its significance.

27. In ***H.P. Housing Board vs. Ram Lal & others alongwith connected matter, 2003 (3) Shimla Law Cases 64***, it has been held that when the land is being developed for a housing colony, classification completely loses its

significance. The relevant portion of the aforesaid judgment is extracted hereunder for ready reference:

“27. When the land is being developed for a housing colony, as in the present case, classification completely loses significance. Reason being that it has to be developed as a single unit i.e. for housing colony. Similarly allowing higher price for land near the road and for the one which is at a distance from the road also does not provide any reasonable, muchless rational basis to allow less price for the area. Reason being that a person may be interested to reside near the road side in a developed colony for so many reasons. Whereas another, may like to live in the vicinity which is away from the road to avoid hustle and bustle of being near the roadside and for many other reasons. In these circumstances it cannot be said that location of the land and its distance from the road is good criteria and/or for that matter classification for the assessment of compensation. In my view entire land under acquisition should have been assessed at Rs.200 per sq. meter irrespective of its classification and/or distance from the road.”

28. In the instant case also, admittedly, the land has been acquired for the public purpose, i.e., development of industrial area, therefore, in the present case also, the classification loses its significance. Hence the market value of land is determined at the uniform rate of Rs.7,60,680/- per bigha irrespective of its classification.

29. In view of what has been discussed hereinabove, the appeals are partly allowed. The impugned award is modified to the extent that the petitioners would be entitled to the compensation of the acquired land at the uniform rate of Rs.7,60,680/- per bigha irrespective of its classification along with all statutory benefits as available under the Act. Since the notification was issued in this case way-back on

07.01.2004, therefore, the appellant in all the appeals is directed to deposit the entire balance amount of compensation alongwith up-to-date interest within a period of three months from today.

The appeals are disposed of. Pending application(s), if any, shall also stand(s) disposed of.

(Sushil Kukreja)
Judge

13th August, 2026
(virender)