

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

RFA No. 407 of 2018

Reserved on: 16.07.2026

Date of decision: 05.08.2026

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Rajinder Sharma	Versus	Appellant.
State of H.P. & another		Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellant:	Mr. P.S. Goverdhan, Senior Advocate, with Mr. Rakesh Thakur, Advocate.
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For respondents No. 1 to 3: Mr. Balvinder Singh Ballu,
Deputy Advocate General.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellant, who was one of the petitioners before the learned Reference Court (hereinafter referred to as “petitioner/claimant”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 28.12.2017, passed by learned Additional District Judge-II, Solan, District Solan, H.P. (hereinafter referred to as “the learned Reference Court”) in Reference Petition No. 2FTC/4 of 2007, whereby the reference petition filed by the

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

petitioners/claimants, i.e., appellant-Shri Rajinder Sharma, Shri Netar Singh, Smt. Vidya (now deceased) and Shri Padam Singh, who were petitioners before the learned Reference Court and proforma respondents herein, was partly allowed by holding that all the petitioners are entitled for damages for use and occupation in the sum of Rs.1,10,920/- of the acquired land, for the period w.e.f. October, 1994 to 28.08.2004.

2. The facts giving rise to the instant appeal are that the petitioners preferred a petition before the learned Reference Court under Section 18 of the Act seeking enhancement of compensation qua their land bearing khasras No. 2585/2116/1392/1073/1, measuring 119 square meters, situated in Mauza Basal-Patti-Kather, which was acquired for construction of a water tank by the State Government. The aforesaid petition, i.e., Case No. 2FTC/4 of 2007, was decided by the learned Reference Court on 10.09.2008, whereby the enhanced compensation was granted @Rs.2000/- per square meter. However, the respondents/State, filed appeal, i.e., RFA No. 41 of 2009, before this Court, which was decided on 18.07.2017, whereby the award passed by the learned Reference Court

was affirmed and the matter was remanded back to the learned Reference Court with a direction to determine the possession in accordance with law and the appellants were given liberty to establish their claim for reimbursement of compensation for use of the property by the respondents/State without initiating proceedings under the Act.

2(a). The learned Reference Court, after receipt of the case file, framed the following issue on 13.09.2017:

“Issue No. 4: Whether the claimants are entitled to receive the use and occupation charges as damages of the disputed property prior to the date of acquisition by the respondents (i.e. January 1993 till issuance of notification under Section 4 of the Act), as alleged?”

3. Both the parties were provided due opportunity to adduce their evidence and the learned Reference Court, after hearing the learned counsel for the parties and after examining the entire record, partly allowed the reference petition and the petitioners were held entitled for damages for use and occupation in the sum of Rs.1,10,920/- for the acquired land for the period w.e.f. October, 1994 to 28.08.2004. However, petitioner-Shri Rajinder Sharma, still feeling aggrieved preferred the instant appeal against the

impugned award passed by the learned Reference Court.

4. The learned Senior Counsel for the appellant contended that the respondents have taken the possession of the land in question in the month of October, 1994, whereas it was in the month of August, 2004, that notification under Section 4 of the Act, for the acquisition of the land in question, was issued. He further contended that the appellant is entitled for damages/use and occupation charges w.e.f. October, 1994 till August, 2004, as the appellant had been deprived of his legitimate right of enjoying possession of his land.

5. Conversely, the learned Deputy Advocate General for the respondents/State supported the impugned award and contended that the same is the result of proper appreciation of the material on record and it does not need any interference. He further contended that the instant appeal, being devoid of merits, be dismissed.

6. I have heard the learned Senior Counsel for the appellant, learned Deputy Advocate General for the respondents/State and carefully examined the entire records.

7. As per the petitioner, the acquired land was taken into possession by the respondents/State in the month of

October, 1994 and it had started raising construction of the water tank on his land immediately thereafter. While passing the impugned award, the learned Reference Court had categorically held that the possession of the land of the petitioner was taken by the respondents/State in the month of October, 1994. Admittedly, no challenge has been laid by the respondents to the aforesaid findings qua taking over of the possession in the month of October, 1994, hence the same had attained finality.

8. Now, the question which arises for consideration before this Court is as to what amount of compensation, the petitioner is entitled with respect to additional interest as damages from the month of October, 1994 till the date of issuance of the notification under Section 4 of the Act.

9. The issue of granting damages/use and occupation charges for the period w.e.f. taking-over of the possession of the land till the issuance the notification under Section 4 of the Act is no longer *res integra*. In ***Madishetti Bala Ramul (dead) by LRs vs. Land Acquisition Officer (2007) 9 SCC 650***, Hon'ble Supreme Court allowed the interest @ 15% per annum on the market value assessed by the Reference Court on the ground that the land was utilized

for public purpose without acquisition and payment of compensation for considerable long period. The relevant extract from the aforesaid judgment is quoted for reference as under:

- “9. The short question which, therefore, arises for consideration is as to whether Section 25 of the Act will have any application in the fact of the present case. Two notifications were issued separately. The second notification was issued as the first notification did not survive. Valuation of the market rate for the acquired land, thus, was required to be determined on the basis of the notification dated 23.12.1991. The earlier notification lost its force. If the notification issued on 16.03.1979 is taken into consideration for all purposes, the subsequent award awarding market value of the land @ Rs. 65/- per square yard cannot be sustained. As the said market value has been determined having regard to the notification issued on 23.12.1991, possession taken over by Respondent in respect of 3 acres 5 guntas of land, pursuant to the said notification dated 16.03.1979 was in the eye of law, therefore, illegal. The High Court evidently directed grant of additional market value @ 12% per annum on the enhanced market value from the date of the publication of the notification dated 23.12.1991 as also interest thereupon from the said date instead and place of 18.05.1979. We generally agree therewith.*
15. The Land Acquisition Officer took possession of the land on the basis of a notification which did not survive. Respondent could not have continued to hold possession of land despite abatement of the proceeding under the 1984 Act. It was directed to be decided by the High Court upon a reference made by the Collector in terms of Section 30 of the Act. The State, therefore, itself realized that its stand in regard to the ownership of 3 acres and 5 guntas of land was not correct. It, therefore, had to issue another notification having regard to the provisions contained in the Land Acquisition (Amendment) Act, 1984. Whereas the High Court may be correct in interpreting the question of law in view

of the decision of this Court, but the same would not mean that Appellants would not get anything for being remaining out of possession from 1979 to 1991.

20. *In the peculiar facts and circumstances of the case, although the proper course for us would have to remand the matter back to the Collector to determine the amount of compensation to which the Appellants would be entitled for being remained out of possession since 1979, we are of the opinion that the interest of justice would be met if this appeal is disposed of with a direction that additional interest @ 15% per annum on the amount awarded in terms of award dated 02.01.1999 for the period 16.03.1979 till 22.12.1991, should be granted, which, in our opinion, would meet the ends of justice."*

10. In ***Tahera Khatoon & others vs. Revenue Divisional Officer/Land Acquisition Officer & others, (2014) 13 SCC 613***, the Hon'ble Supreme Court has held as under:

"14. In the instant case, it is not in dispute nor can it be disputed by either side that the property in dispute was in possession of the Warangal Municipal Committee. In fact the said Municipal Committee had developed the aforesaid land into a part. Since there was a dispute among the owners of the land with the Municipal Committee, the Municipal Committee had sought the assistance of the State Government to acquire the property and to hand over the same to the Municipal Committee for its use and development.

15. *It is also not in dispute that the Municipal Committee was in possession of the aforesaid property right from 1-1-1938 till the Notification was issued by the State Government on 10-1-1996. Keeping in view the observations made by this Court in Madeshetti Bala Ramul (2007) (9) SCC 650, we direct the State Government to pay rents/damages at the rate of 15% on the compensation awarded from the date the landowners were dispossessed, namely, from 1-1-1938 till the date of issuance of the preliminary*

Notification i.e. 10-1-1996. The calculations shall be made by the State Government as expeditiously as possible and disburse the aforesaid amount to the appellants as early as possible, at any rate, within three months from the date of receipt of copy of this order.”

11. In ***Balwan Singh & others vs. Land Acquisition Collector & another, (2016) 13 SCC 412***, the same view was reiterated by the Hon'ble Supreme Court and a direction was issued to the acquiring authority to award additional interest by way of damages from the date when the respondents-claimants were dispossessed till the date of notification under Section 4 of the Act. Relevant paras of ***Balwan Singh's*** judgment (supra) for the sake of ready reference are extracted hereunder:

- “1. *The short issue arising for consideration in this appeal is whether the appellants are entitled to interest for the period from the date of dispossession to the date of Notification under Section 4(1) of the Land Acquisition Act, 1894 (For short 'the Act'). That issue is no more res integra. In R.L. Jain Vs. DDA (2004) 4 SCC 79 at para 18, this Court has taken the view that the land owner is not entitled to interest under the Act. However, it has been clarified that the land owner will be entitled to get rent or damages for use and occupation for the period the Government retained possession of the property.*
2. *Noticing the above position, this Court in Madishetti Bala Ramul Vs. Land Acquisition Officer (2007) 9 SCC 650, took the view that it may not be proper to remand the matter to the Collector to determine the amount of compensation to which the appellants therein would be entitled for the period during which they remained out of possession and hence, in the interest of justice, this Court directed that additional interest at the rate of 15% per annum on the amount awarded by the Land Acquisition*

Collector, shall be paid for the period between the date of dispossession and the date of Notification under Section 4(1) of the Act.

3. *The said view was followed by this Court in Tahera Khatoon Vs. Land Acquisition Officer (2014) 13 SCC 613.*
4. *Following the above view taken by this Court, these appeals are disposed of directing the respondents to award additional interest by way of damages, at the rate of 15% per annum for the period between 1.7.1984, the date when the appellants were dispossessed till 2.9.1993, the date of Notification under Section 4(1) of the Act. Needless to say, that this compensation will be on the basis of land value fixed by the Reference Court. The amount as above, shall be calculated and deposited before the Reference Court within a period of three months from today."*

12. In the case on hand, as observed earlier, the possession of the land in question was taken in the month of October, 1994, whereas, the notification qua acquisition under Section 4 of the Act was issued on 28.08.2004. Hence, in view of the aforesaid authoritative pronouncements of the law laid down by the Hon'ble Supreme Court on the subject, this Court is of the view that since the possession of the land in question was taken way-back in the month of October, 1994, whereas, the notification qua the acquisition under Section 4 of the Act was issued on 28.08.2004, therefore, the petitioner is entitled to additional interest, as damages, @ 15% per annum for the period with effect from October, 1994, (the date when the petitioner was actually dispossessed from the land in question) till 28.08.2004 (the

date of issuance of notification of acquisition of the land in question, under Section 4 of the Act). The learned Reference Court has erroneously held that the petitioner is entitled for compensation @Rs.11,200/- per year, i.e., Rs.1,10,920/- for the acquired land (w.e.f October 1994 to 28.08.2004).

13. Hence, in view of what has been discussed hereinabove, the instant appeal is partly allowed and the impugned award dated 28.12.2017 is modified to the extent that the petitioner is entitled to additional interest, as damages, @ 15% per annum for the period from October, 1994, (the date when the petitioner was actually dispossessed from the land in question) till 28.08.2004 (the date of issuance of notification of acquisition of the land in question, under Section 4 of the Act).

The appeal stands disposed of, so also the pending application(s), if any.

(Sushil Kukreja)
Judge

5th August, 2026
(virender)