

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

**RFA No. 191 of 2019 with RFA
No. 419 of 2019**

Reserved on: 17.07.2026

Date of decision: 07.08.2026

**Date of uploading on website:
07.08.2026**

1. RFA No. 191 of 2019:

N.D. Chauhan (since dead) through His LRs

.....Appellants.

Versus

State of H.P. & others

.....Respondents.

2. RFA No. 419 of 2019:

Himachal Pradesh Power Transmission Corporation Limited

.....Appellant.

Versus

N.D. Chauhan (since dead) through His LRs & others

.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

RFA No. 191 of 2019:

For the appellants:

Ms. Seema K.Guleria,
Advocate.

For respondent No. 1/State: Ms. Archana Negi, Deputy
Advocate General.

For respondent No. 2/
HPSEB:

Ms. Sunita Sharma, Senior
Advocate, with Ms. Harshita
Dogra, Advocate.

For respondent No. 3/
HPPTCL:

Mr. Shubham Sood, Advocate.

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

RFA No. 419 of 2019:

For the appellant: Mr. Shubham Sood, Advocate.

For respondents No. 1(a)
to 1(c): Ms. Seema K. Guleria,
Advocate.

For respondent No. 2/State: Ms. Archana Negi, Deputy
Advocate General.

For respondent No. 3/HPSEB:
Ms. Sunita Sharma, Senior
Advocate, with Ms. Harshita
Dogra, Advocate.

Sushil Kukreja, Judge.

Since the instant appeals are the offshoots of impugned award, dated 04.04.2019, the same are taken up together for consideration and disposal.

2. RFA No. 191 of 2019, has been preferred by appellant-Shri ND. Chauhan, who during the pendency of the instant appeals died and now the appeal is being pursued by his LRs. The appellant was petitioner before the learned Additional District Judge-cum-Special Judge (CBI), District Shimla, H.P. (hereinafter referred to as “the learned Reference Court”), and he had filed Land reference No. 2-S/4 of 2017/12 before the learned Reference Court under Section 54 of the Land Acquisition Act (for short “the Act”),

which was partly allowed and the petitioner-Shri N.D. Chauhan, alongwith petitioner-Smt. Santosh, in another Land Reference No. 3-S/4 of 2017/12, was held entitled for enhanced market value at the uniform rate of Rs.10,00,000/- per bigha for all categories of their acquired land. In addition to this, the petitioners therein were also held entitled to interest @ 12% per annum on the aforesaid enhanced compensation for the period commencing from the date of publication of notification under Section 4 of the Act alongwith other statutory benefits. The petitioner preferred the instant appeal, i.e. RFA No. 191 of 2019 with a prayer to enhance the compensation amount.

3. On the other hand RFA No. 419 of 2019 has been preferred by Himachal Pradesh Power Transmission Corporation Limited, who was respondent No. 3 before the learned Trial Court, under Section 54 of the Act, against the impugned award dated 04.04.2019, passed by the learned Reference Court, with prayer to set-aside the same.

4. The facts giving rise to the instant appeals are that the Government of Himachal Pradesh, vide notification dated 06.04.2011, issued under Section 4 of the Act intended to acquire land in village Ghoonda for public purpose, i.e., for

the construction of 220/440 KV (Electricity) Sub Station. The aforesaid notification was published in H.P. Rajpatra on 08.04.2011 and also in two daily news papers on 14.04.2011. Subsequently, on 19.07.2011, notification under Sections 6 and 7 of the Act was issued and ultimately the Land Acquisition Collector passed award dated 21.12.2011, whereby the market value of the acquired land was determined at uniform rate of Rs.7,25,000/- per bigha, i.e., Rs.963.44 per centare, irrespective of the classification of the land.

4(a). The Reference Court, after hearing the learned counsel for the parties and after examining the entire record, allowed the reference petitions, including the reference petition, so filed by the petitioner, and held the petitioners entitled to enhanced market value at the uniform rate of Rs.10,00,000/- per bigha for all categories of their acquired land other statutory benefits.

5. Feeling aggrieved, original petitioner/claimant-Shri N.D. Chauhan, filed appeal, RFA No. 191 of 2019 against the impugned award with a prayer to enhance the compensation amount with respect to loss of fruit bearing trees, whereas respondent No. 3-Himachal Pradesh Power

Transmission Corporation Limited (HPPTCL) filed appeal, RFA No. 419 of 2019, against the impugned award to set-aside the same.

6. At this stage, it would be pertinent to mention that during the pendency of the instant appeals, original petitioner/claimant-Shri N.D. Chauhan expired and his appeal is now being pursued by his legal representatives.

7. Learned Counsel for the petitioners/claimants contended that the learned Reference court had erroneously dismissed the claim of the petitioners with respect to loss of fruit bearing trees, which existed over the acquired land and had wrongly and illegally not considered the valuation report, Ex. PW-2/A, with respect to the trees standing on the acquired land. She further submitted that the aforesaid report had been wrongly brushed aside and not considered, which has caused substantial injustice to the petitioners/claimants, as the expert, while assessing the value of the trees had adopted the Harbans Singh's formula.

8. Conversely, the learned Deputy Advocate General contended that the learned Reference Court while assessing the market value of the acquired land had wrongly relied upon award, Ex. PW-3/A, which award has admittedly

been passed by Land Acquisition Collector, HP PWD, South Zone, Winter Field, Shimla, after negotiating with the claimants therein and the same being a negotiated award cannot be made basis to determine the market value of the land under acquisition.

9. I have heard the learned Counsel/Senior Counsel for the respective parties and carefully examined the entire record.

10. In order to prove his case, the petitioner/claimant-Shri N.D. Chauhan, himself stepped into the witness-box as PW-1 and tendered in evidence his affidavit, Ex. PW-1/A. He also tendered in evidence copy of impugned award, Ex. PW-1/B, copies of jamabandis, Ex. PW-1/C and Ex. PW-1/D and objection filed before the Collector, Ex. PW-1/E. The petitioner/claimant also examined Shri B.S. Bajwa, Horticulture Expert, as PW-2, who deposed that on 20.10.2009, he had inspected the orchard of the petitioners and prepared valuation report, Ex.PW-2/A, qua the trees standing over the acquired land. PW-3 Shri Shyam Lal, the then Kanungo, deposed that compensation of Rs.10,00,000/- per bigha for cultivated land and Rs.4,00,000/- per bigha for uncultivated land was

granted for the land acquired for the construction of Theog-Hatkoti road, vide award, Ex. PW-3/A. This witness had also tendered a list of rates approved by Collector for the acquisition of land for construction of Theog-Hatkoti Road, which is Ex. PW-3/B. Shri Jia Lal, the then Patwari, appeared in the witness-box as PW-4 and he had proved on record maps (khakha dasti) qua revenue village Himri and Gumma, which are Ex. PW-4/A and Ex. PW-4/B, respectively. As per this witness, a Cold Store was near the acquired land and an Engineering and Technology College was at a distance of $\frac{1}{2}$ km. He also deposed that the distance by road from Barogi to Ghoonda was approximately 15-20 kms and Gumma was nearby the acquired land. Shri Jia Lal, the then Patwari, was again examined as PW-5 and he tendered map (Khakha dasti) qua revenue village Ghoonda Khandu and Gumma, which is Ex. PW-5/A.

11. On the other hand, respondents had examined their consultant/Kanungo, Shri Mohinder Kumar, as RW-1. He tendered in evidence copy of award passed by the Collector, Ex. PW-1/B. This witness supported the said award by stating that adequate compensation had been awarded to the petitioners.

12. The perusal of the impugned award reveals that while determining the market value of the acquired land, at the rate of Rs.10,00,000/- per bigha, the learned Reference court had placed reliance upon award, Ex.PW-3/A, perusal whereof shows that it was a negotiated award passed by Land Acquisition Collector, HPPWD, South Zone, Winter Field, Shimla, and had been passed after having negotiations of the land rates with the land owners.

13. Now the question which arises for consideration before this Court is as to whether the learned Reference Court could have relied upon the consent award, Ex. PW-3/A, in determining the market value of the land under acquisition.

14. This issue is no longer *res integra*, as the Hon'ble Supreme Court in ***Special Land Acquisition Officer & others vs. N. Savitha, (2022) 7 Supreme Court Cases 256***, held that a consent award in another acquisition proceedings cannot be relied upon to determine the compensation. The relevant portion of the judgment (*supra*), for the sake for ready reference, is extracted hereunder:

"5. Even otherwise, it is required to be noted that Ext. P-17 is a consent award. Therefore, the consent award ought not to have been relied upon and/or considered for the purpose of determining the compensation in case of another acquisition. In

case of a consent award, one is required to consider the circumstances under which the consent award was passed and the parties agreed to accept the compensation at a particular rate. In a given case, due to urgent requirement, the acquiring body and/or the beneficiary of the acquisition may agree to give a particular compensation. Therefore, a consent award cannot be the basis to award and/or determine the compensation in other acquisition, more particularly, when there are other evidences on record. Therefore, the High Court has erred in determining the compensation @ Rs.40 lakhs per acre relying upon the award – Ext. P-17 in respect of the land which was for the lands acquired in the year 2011.”

15. In the instant case also, award, Ex. PW-3/A, is admittedly a consent award, therefore, the learned Reference court could not have relied upon award, Ex.PW-3/A, in determining the market value of the land under acquisition. Hence, the impugned award, passed by the learned Reference Court, is liable to be set-aside on this count.

16. Now coming to the contention of the learned counsel for the petitioners/claimants that the learned Reference Court had erred in brushing aside report of the expert, Ex.PW-2/A, which report had been prepared on the basis of Harbans Singh's formula and the claimants are entitled to compensation as per report, Ex.PW-2/A. In the opinion of this Court, the learned Reference Court had erroneously dismissed the claim of the petitioners with respect to the compensation for their loss of fruit bearing

trees without assigning any cogent reason and without appreciating the entire evidence on record in its proper perspective. Hence, the impugned award, passed by the learned Reference Court, is liable to be set-aside on this score also.

17. Therefore, in view of the facts and circumstances of the present case, the impugned award is set-aside and the matter is remanded back to the learned Reference Court with a direction to determine the market value of the land under acquisition afresh, after taking into consideration the judgment passed by the Hon'ble Supreme Court in **N. Savitha's** case (supra) and the learned Reference Court is also directed to determine afresh the entitlement of the petitioners/claimants for compensation with respect to loss of fruit bearing trees existing on the land under acquisition, after affording reasonable opportunity of being heard and to lead evidence to both the parties.

18. Needless to state that since notification, in this case, was issued under Section 4 of the Act on 06.04.2011, the learned Reference Court is directed to decide the reference petition as expeditiously as possible and in no event later than **31st March, 2027**.

19. The parties are directed to appear before the learned Reference court on **2nd September, 2026**.

20. Learned Registrar (Judicial) is directed to send the record of this case to the learned Reference Court immediately.

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

(Sushil Kukreja)
Judge

7th August, 2026
(virender)