

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**RFA No.221 of 2014 a/w RFAs
No.209 to 214, 216 & 364 of 2014****Reserved on : 25.06.2026****Date of Decision :.28.07.2026****Date of uploading on Website: 28.07.2026**

1. RFA No.221 of 2014

Ashok Kumar and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

2. RFA No.209 of 2014

Fakir Chand and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

3. RFA No.210 of 2014

Om Prakash and another

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

4. RFA No.211 of 2014

Sisla Devi

....Appellant

Versus

Land Acquisition Collector, SJVNL

...Respondent

5. RFA No.212 of 2014

Tikkam Ram and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

6. RFA No.213 of 2014

Bakshi Ram and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

7. RFA No.214 of 2014

Pretam Chand and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

8. RFA No.216 of 2014

Ashish and others

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondents

9. RFA No.364 of 2014

Kanwar Singh and another

....Appellants

Versus

Land Acquisition Collector, SJVNL

...Respondent

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting?¹

For the appellant(s) : Ms. Ritta Goswami, Senior Advocate, with Ms. Komal Chaudhary and Ms. Rekha Thakur, Advocates, for the appellants.

For the respondent(s): Ms. Devyani Sharma, Senior Advocate, with Mr. Shivam Sharma, Advocate, in all the appeals.

Sushil Kukreja, Judge

Since all these appeals are the off-shoots of common award dated 12.09.2013, passed by the learned District Judge, Kinnaur Civil Division at Rampur Bushahr, District Shimla, HP (hereinafter referred to as the Reference Court), hence, they are taken up together and being disposed of by a common judgment.

2. The appellants-petitioners (hereinafter referred to as the petitioners) preferred the instant appeals under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act') against the impugned common award dated 12.09.2013, passed by the learned Reference Court, whereby the Reference Petitions filed by them under Section 18 of the Act for enhancement of the amount of compensation were dismissed.

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

3. Briefly stated that case of the case are that the Government of Himachal Pradesh had issued notification dated 02.08.2005, under Section 4 of the Act for acquisition of land for the construction of *Rampur Hydro Electric Project of Satlut Jal Vidyut Nigam Limited (SJVNL)* in Village Phati Gadej, Tehsil Nirmand, District Kullu, HP, which was published in the official gazette on 20.08.2005 and in two newspapers, i.e. '*Amar Ujala*' and the '*Hindustan Times*' on 26.08.2005 and subsequent corrigendum thereon dated 10.03.2006. No objections were received regarding acquisition of the land and consequently notification under Sections 6 and 7 of the Act was also issued on 20.01.2006, which was published in the official gazette on 11.02.2006 and in the newspapers, i.e. '*Amar Ujala*' & '*Divya Himachal*' on 28.02.2006. After detailed inquiry, the Land Acquisition Collector had assessed the market value of the acquired land at a flat rate of Rs.4,41,172/- per bigha, irrespective of the classifications of land.

4. The petitioners, feeling aggrieved and dissatisfied with the said award, preferred reference petitions under Section 18 of the Act with the prayer that the matters be referred to the learned District Judge, Kullu, HP for enhancement of the amount of compensation.

5. The learned Reference Court, vide common award dated 12.09.2013, dismissed all the reference petitions. Again feeling dissatisfied/aggrieved, the petitioners (appellants herein) preferred the instant appeals, with the prayer that the impugned award dated 12.09.2013 be quashed and set aside and the same compensation may be awarded in their favour as has been awarded for the other land, acquired for the similar purpose, i.e. at a higher rate of Rs.4,49,874/- per bigha.

6. Learned Senior Counsel for the appellant(s) contended that the impugned award is illegal and without any application of mind as the similar land of other right holders, acquired for the common purpose, has been awarded compensation at a higher rate of Rs.4,49,874/-. In support of her contentions, she also placed reliance upon ***Jaiprakash (dead) by Legal Representatives and others Vs. State of Uttar Pradesh and another, 2020 (11) SCC 770, State of Himachal Pradesh and others Vs. Hukmi Ram and others, 2015 (1) Sim LC 318, Union of India Vs. Harinder Pal Singh and others, 2005 (12) SCC 564 and Rama Nand Vs. State of HP and another, 2016 (Suppl.) Him. L.R. 3145.***

7. On the other hand, learned Senior Counsel for the respondents-SJVNL supported the impugned award passed by the learned Reference Court and prayed for dismissal of the appeals.

8. I have heard the learned Senior Counsel for the appellant(s) as well as the learned Senior Counsel for the respondent(s)-SJVN and have also carefully gone through the records.

9. 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 let 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.

10. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs & others vs. 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."

11. 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."

12. 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."

13. 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.”

14. The onus is upon the petitioners/claimants to prove the true and correct market value of the land at the time of the issuance of the notification under Section 4 of the Act. They are expected to lead cogent and satisfactory evidence in support of their claim. In ***Special Land Acquisition Officer vs. Karigowda & others, (2010) 5 SCC 708***, it has been held that the onus to prove entitlement to receive higher compensation is upon the claimants but it cannot be said that there is no onus whatsoever

upon the State in such reference proceedings. The court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. The relevant portion of the aforesaid judgment reads as under:

“29. It is a settled principle of law that the onus to prove entitlement to receive higher compensation is upon the claimants. In Basant Kumar v. Union of India [(1996) 11 SCC 542] this Court held that the claimants are expected to lead cogent and proper evidence in support of their claim. Onus primarily is on the claimants, which they can discharge while placing and proving on record sale instances and/or such other evidences as they deem proper, keeping in mind the method of computation for awarding of compensation which they rely upon. In this very case, this Court stated the principles of awarding compensation and placed the matter beyond ambiguity, while also capsulating the factors regulating the discretion of the Court while awarding the compensation. This principle was reiterated by this Court even in Gafar v. Moradabad Development Authority [(2007) 7 SCC 614] and the Court held as under: (SCC p.620, para 12)

“12. As held by this Court in various decisions, the burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more. That burden had to be discharged by the claimants and only if the initial burden in that behalf was discharged, the burden shifted to the State to justify the award.”

Thus, the onus being primarily upon the claimants, they are expected to lead evidence to revert the same, if they so desire. In other words, it cannot be said that there is no onus whatsoever upon the State in such reference proceedings. The court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. Every case has to be examined on its own facts and the courts

are expected to scrutinise the evidence led by the parties in such proceedings.”

15. In order to prove their case for enhancement of compensation, the petitioners have examined PW-1 Tikkam Ram and PW-2 Lal Chand and in all the respective petitions, they have also Individually stepped in the witness box. Whereas, in order to rebut their case, the respondent-LAC examined RW-1 Chiranji Lal, Kanungo, who had produced on record copy of award No.6/2005 and some other documents, which are Ext. RW-1/A to Ext.RW-1/M.

16. Learned Senior Counsel for the appellants vehemently contended that the lands of the petitioners as well as other right holders of revenue villages Nirmand and Bayal were acquired by the respondents for the construction of same hydro electric project, therefore, the classification and nature of the lands situated in these different revenue villages, were not relevant and the petitioners should have been granted compensation @ Rs.4,49,874/- per bigha as was awarded to the land owners of revenue village Nirmand.

17. Admittedly, the acquired land is situated at village Phati Gadej, Tehsil Nirmand, District Kullu. The petitioners have failed to produce any sale transaction with respect to the revenue village

Phati Gadej. As per the petitioners, the acquired land was adjoining to the land, which was acquired by the Government for the establishment of military base and for this reason, it has great commercial potentiality. However, the learned Reference Court has rightly held that mere fact that the acquired land is close to the military base, is not indicative of the fact that the market value of the acquired land was Rs.8 lacs per bigha on the date of notification under Section 4 of the Act. On the contrary, the statement of PW-1-Tikkam Ram goes to show that the owners of that land, on which military base has been established, were awarded compensation at the rate of Rs.65,000/- per bigha only.

18. There is no dispute about the proposition that when the purpose of acquisition of the land is same, the classification of the land loses its significance and the right holders can claim compensation at flat rates, irrespective of its classification. However, in the case on hand, the learned Reference Court has rightly held that this principle can be applied only in respect of lands situated in one revenue village. Therefore, the judgments cited by the learned Senior Counsel for the appellants are not applicable to the facts of the present case(s).

19. The appellants, in the instant appeals, have also filed application(s) under Order 41, Rule 27 of CPC for placing on record copy of the *Jamabandis* of the land situated in villages Bayal and Koyal (Phati Gadej), copy of award dated 23.09.2006, passed by the Land Acquisition Collector with regard to the land situated in Village Bayal as well as copy of award dated 30.10.2006, passed by the Land Acquisition Collector, with respect to Village Koyal (Phati Gadej) on the ground that they could not produce these documents before the reference Court despite due diligence and these are necessary for the proper adjudication of the case as well as for pronouncement of the judgment.

20. In ***Gobind Singh and others Vs. Union of India, (2026) 4 SCC 130***, the Hon'ble Supreme Court has held that the parties do not possess any vested or automatic right to seek admission of additional evidence at the appellate stage and additional evidence can be permitted only upon being satisfied that the conditions expressly stipulated under Order XLI, Rule 27 of CPC are fulfilled. The relevant portion of the aforesaid judgment reads as under:-

“19. In order to properly appreciate the controversy involved, it is necessary to first advert to the statutory

provision applicable to the case at hand. Order XLI, Rule 27 of CPC reads as follows: -

“27. Production of additional evidence in Appellate Court.— (1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if –

(a)

(aa) the party seeking to produce additional evidence, establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b)

the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.” (emphasis supplied)

20. Rule 27, being couched in negative terms, makes it abundantly clear that parties to an appeal are not entitled to adduce additional evidence, whether oral or documentary, save and except in the circumstances expressly enumerated therein. The provision contemplates only three eventualities in which additional evidence may be permitted: first, where the court which passed the decree has refused to admit evidence which ought to have been admitted; second, where the party seeking to adduce such evidence establishes that, notwithstanding the exercise of due diligence, the evidence was not within its knowledge or could not have been produced at the time when the decree under appeal was passed; and third, where the appellate court itself requires any document to be produced or any witness to be examined in order to enable it to pronounce judgment or for any other substantial cause.

22. Thus, a holistic reading of the aforesaid decision makes it clear that the appellate court's inquiry, while considering an application for leading additional evidence, is confined to examining whether such evidence is necessary to remove a lacuna in the case. More importantly, the appellate court may permit additional evidence only upon being satisfied that the conditions expressly stipulated under Order XLI, Rule 27 of CPC are fulfilled. The parties do not possess any vested or automatic right to seek admission of

additional evidence at the appellate stage. Consequently, the provision has no application where the appellate court is in a position to render a satisfactory and reasoned judgment on the basis of the evidence already available on record."

21. In the instant case, in the opinion of this Court, the applications filed by the appellants, do not satisfy the requirements of the provisions of Order XLI, Rule 27, CPC. The documents sought to be produced on record are neither relevant nor necessary for the purpose of adjudication of the real controversy between the parties. As observed earlier, the award pertaining to the different revenue village cannot be made basis for assessing compensation in the present case and the learned Reference Court has rightly held that the market value of the land situated in two different villages is always different and, as such, the right holders of one revenue village cannot claim parity with the right holders of the land situated in other revenue village.

22. To take this view, I am supported with the judgment of the Hon'ble Supreme Court in ***Horrmal (deceased) through his LRs and others Vs. State of Haryana and others, 2024 SCC Online SC 2990***, the Hon'ble Supreme Court has held that in the ordinary course, sale exemplars of lands located in the surrounding villages should generally not be relied upon, as land

valuation may vary significantly by locality. The relevant para of the aforesaid judgment reads as under:-

“24.. Apart from these sale deeds that were not proximate temporally, we also deem it appropriate to exclude the sale deeds that are not comparable geographically. It is now a firmly entrenched principle of law that, in the ordinary course, sale exemplars of lands located in the surrounding villages should generally not be relied upon, as land valuation may vary significantly by locality. In the landmark decision of Kanwar Singh vs. Union of India, this Court held that sale exemplars of lands situated in an adjacent village cannot be used to determine the market value of the acquired land since such lands may differ in terms of quality and other attributes. On this ground, the sale deeds enumerated Ex. R8 to Ex. R16 and Ex. R18 shall also have to be excluded from consideration, as they pertain to a different village, namely Gwarka, whereas the acquired land is situated in village Tauru.”

23. Therefore, in view of the aforesaid decision of the Hon'ble Supreme Court in **Horrmal's** case, the right holders of one revenue village cannot claim parity with the right holders of the lands situated in other revenue village. Admittedly, the lands of the petitioners were situated in revenue village Gadej and uniform compensation at flat rates has been awarded, irrespective of their classification. Though, the right holders of village Nirmand have been awarded compensation at the rate of Rs.4,49,874/- per bigha, yet that rate cannot be granted to the petitioners, who are the right holders of different revenue village.

24. Hence, in view of the above, no interference is required in the impugned common award dated 12.09.2013, passed by the learned District Judge, Kinnaur, Civil division at Rampur Bushahr, District Shimla, HP. Consequently, the instant appeals, being devoid of merits, deserve dismissal and are accordingly dismissed.

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

July 28, 2026
(V.Himalvi)

(Sushil Kukreja)
Judge