

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

RFA No. 166 of 2014

Reserved on: 07.07.2026

Date of decision: 13.07.2026

**Date of uploading on website:
13.07.2026**

Rajinder Kumar & another

.....Appellants.

Versus

Amar Singh & others

.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

For the appellants:

Mr. Virender Chauhan,
Advocate, vice Mr. Surinder
Saklani, Advocate.

For respondents No. 1 & 2: Mr. Manjeet Singh, Advocate,
vice Mr. G.R. Palsra, Advocate.

Name of respondent No. 3 deleted.

For respondent No. 4/State: Ms. Archana Negi, Deputy
Advocate General.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellants, who were respondents before the learned Reference Court (hereinafter referred to as “respondents”) under Section 54 of the Land Acquisition Act, 1894 (for short

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

“the Act”) against award dated 26.12.2012, passed by learned District Judge, Mandi, H.P. (hereinafter referred to as “the learned Reference Court”) in Reference Petition No. 1/2010, whereby the reference petition filed by the petitioners/claimants (respondents No. 1 to 3 herein) was disposed of by holding that Rasila Ram was not competent to execute the will regarding the subject matter of the acquisition. Consequently, it was held that the legal heirs of Rasila Ram, i.e., petitioners/claimants were entitled to get the compensation, as per their shares.

2. The facts giving rise to the instant appeal are that Shri Rasila Ram, who was father of the petitioners, i.e., S/Shri Amar Singh, Ranvir Singh and Prem Singh as well as respondent No. 1 Rajinder Kumar, and husband of respondent No. 2-Smt. Fagni Devi, was owner of land comprised in khasra No. 369/2, 415/370/1, situated in Mauza Katipari, Tehsil Padhar, District Mandi, H.P.. A notification under Section 4 of the Act was issued on 02.12.1994 for the acquisition of the aforesaid land for the purpose of construction of Pathankot-Mandi N.H. No. 20. Ultimately, award under Section 11 of the Act was passed by the Land Acquisition Collector on 03.01.1997.

2(a). The case of the petitioners is that on 17.08.2021 their father-Shri Rasila Ram executed a “Will” in their favour and in favour of respondent No. 1-Shri Rajinder Kumar and bequeathed all his movable property to them and respondent No. 1. The petitioners further averred that after the execution of the will, Rasila Ram was no longer owner of the acquired land and structure and the compensation awarded by respondent No. 3-Executive Engineer, HPWD, NH 20, was to be given to the petitioners and respondent No. 1. On 09.03.2002 Rasila Ram died and on 29.06.2000 mutation qua the acquisition of land and structure was attested. As per the petitioners, ownership and possession of the acquired land vested with the government in the year 1990, thus, Rasila Ram had no right, title and interest in the land in question, therefore, he was not competent to execute the “Will” qua the acquired land and structure. The petitioner had also filed application under Section 372 of the Indian Succession Act, which was dismissed by learned Civil Judge (Senior Division), Mandi, and the petitioners were directed to file a reference petition under Section 30 of the Act.

3. Respondents No. 1 and 2, i.e., Rajinder Kumar and Fagni Devi contested the petition by filing their joint

reply, wherein they took preliminary objections that the petition is false and frivolous, as land comprised in khasra No. 710/369 was bequeathed to them by Rasila Ram, as per “Will” dated 17.08.2001 and they were recorded as owners-in-possession of the said land/structure. They pleaded that the petitioners had accepted “Will” dated 17.08.2001, therefore, the petitioners have no right, title and interest in the compensation for the land and structure. On merits, acquisition of the land was not disputed, but as per the replying respondents, possession of the land in question was not taken by the government till 2008. The replying respondents further averred that the possession of the land was not taken, as per Section 16 of the Act. To fortify their stand, the replying respondents relied upon the statement of Shri Amar Singh, who appeared as PW-1 in the proceedings under Section 372 of Indian Succession Act.

4. Respondent No. 3 filed its separate reply, wherein acquisition of the land was admitted and other contents of the petition were denied.

5. The petitioners filed rejoinder to the replies, wherein stand of the respondents was denied and the averments made in the petition were reiterated.

6. On 02.06.2012/24.12.2012, the learned Reference Court framed the following issues for consideration and adjudication:

- “1. Whether Rasila Ram was not competent to execute the will regarding the acquired land? OPP
2. Whether the Land Acquisition collector has assessed the market value of the land properly, if not, what was the market value of the land at the time of issuance of notification under Section 4 of the Act? OPP
3. Whether the value of his structure has properly been assessed by the Land Acquisition Collector, if not what was the value of the structure? OPP
4. Relief.”

7. The Reference Court, after hearing the learned counsel for the parties and after examining the entire record, answered the reference petition by holding that Rasila Ram was not competent to execute the “Will”. Consequently, it was held that all the legal heirs of Rasila Ram are entitled to get the compensation as per their shares. Hence, the instant appeal preferred by the appellants, i.e., Rajinder Kumar and Fagni Devi, son and widow of Rasila Ram, respectively.

8. The learned vice counsel for the appellants vehemently contended that the learned Reference Court has erroneously arrived at a conclusion that Shri Rasila Ram, who was the real owner of the property was not competent to execute the “Will” in question. He further contended that the learned Reference Court had committed a grave illegality as three issues were framed by the learned Reference Court, however, in the impugned award only issue No. 1 has been discussed and findings were returned thereupon, whereas no findings have been returned on other issues with respect to adequacy of the compensation.

9. On the other hand, the learned vice counsel for respondents No. 1 and 2 supported the impugned award by submitting that the learned Reference Court had passed a well reasoned award and the same does not need any interference by this Court.

10. I have heard the learned vice counsel/counsel and Deputy Advocate General for the respective parties and carefully examined the entire records.

11. The perusal of the impugned award shows that the learned Reference Court had framed three issues, however, findings have been returned only on issue No. 1

and no findings have been returned on issues No. 2 and 3 regarding the adequacy of the compensation with respect to land and structure by the Land Acquisition Collector. Though, in para 10 of the impugned award the learned Reference court had answered issues No. 2 and 3 in negative, but the perusal of the impugned award shows that no findings have been returned on issues No. 2 and 3. Therefore, since the learned Reference Court omitted to give any findings on issues No. 2 and 3, the impugned award passed by the learned Reference Court is set-aside and the matter is remanded back to the learned Reference Court for deciding all the issues in accordance with law, after affording reasonable opportunity of being heard to the parties and to lead evidence on all the issues.

12. Needless to state that since notification, in this case, was issued under Section 4 of the Act on 02.12.1994, the learned Reference Court is directed to decide the reference petition as expeditiously as possible and in no event later than 31st March, 2027.

13. The parties are directed to appear before the learned Reference court on 20th August, 2026.

14. 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

13th July, 2026
(virender)