

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

**RFA No. 18 of 2017 alongwith
RFAS No. 1, 19 to 30, 182,
183, 187 & 349 of 2017**

**Reserved on: 13.08.2026
Date of decision: 01.09.2026
Date of uploading on website:
01.09.2026**

1. RFA No. 18 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Tara Chand & others

.....Respondents.

2. RFA No. 1 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Lajju Ram

.....Respondent.

3. RFA No. 19 of 2017:

Land Acquisition Collector & another

.....Appellants.

Versus

Tara Devi

.....Respondent.

4. RFA No. 20 of 2017:

Land Acquisition Collector & another

.....Appellants.

Versus

Roshan Lal & another

.....Respondents.

5. RFA No. 21 of 2017:

Land Acquisition Collector & other

.....Appellants.

Versus

Jeewan Kumar

.....Respondent.

6. RFA No. 22 of 2017:

Land Acquisition Collector & other

.....Appellants.

Versus

Amin Chand & others

.....Respondents.

7. RFA No. 23 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Hemant Kumar & another

.....Respondents.

8. RFA No. 24 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Amar Dass & another

.....Respondent.

9. RFA No. 25 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Paras Ram

.....Respondent.

10. RFA No. 26 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Ghanshyam Dass & others

.....Respondents.

11. RFA No. 27 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Sauji Ram & others

.....Respondents.

12. RFA No. 28 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Raghu Nath

.....Respondent.

13. RFA No. 29 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Baishakhi

.....Respondent.

14. RFA No. 30 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Lalit Kumar & others

.....Respondents.

15. RFA No. 182 of 2017:

Land Acquisition Collector & another

.....Appellants.

Versus

Chamaru Ram (since deceased) through his LRs & another

.....Respondents.

16. RFA No. 183 of 2017:

Land Acquisition Collector & another

.....Appellants.

Versus

Daya Nand @ Deva & others

.....Respondents.

17. RFA No. 187 of 2017:

Land Acquisition Collector & another

.....Appellants.

Versus

Bhuti (since deceased) through her LRs

.....Respondents.

18. RFA No. 349 of 2017:

Land Acquisition Collector & others

.....Appellants.

Versus

Kanshi Ram (since deceased) through his LRs

.....Respondents.

*Coram***The Hon'ble Mr. Justice Sushil Kukreja, Judge.**¹ *Whether approved for reporting?*

(In all the appeals)

For the appellant(s):

Mr. Balvinder Singh, Deputy
Advocate General.

For the respondents:

Mr. V.B. Verma and Ms. Anu
Minhas, Advocates.

Sushil Kukreja, Judge.

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

2. The instant appeals have been preferred by the appellants-Land Acquisition Collector, HP PWD Central Zone, Mandi, H.P. and others, who were respondents before the learned Reference Court (hereinafter referred to as “the appellants”) under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 03.06.2015,

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

passed by learned Additional District Judge (II), Mandi, District Mandi, H.P. (hereinafter referred to as “the learned Reference Court”) in Reference Petitions, lead being LAC Petition No.9/2014(2009), 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. 33, dated 20.12.2006, passed by Land Acquisition Collector, HPPWD, Mandi, District Mandi, H.P.. It was averred by the petitioners that Government of Himachal Pradesh issued notification dated 19.09.2004, under Section 4 of the Act, whereby the land of the petitioners, measuring 16-16-13 bighas, situated in village Sanaid, Tehsil Padhar, District Mandi, H.P., was acquired for the construction of the National Highway No. 20, Pathankot-Jogindernagar Road. The aforesaid notification was published in H.P. Rajpatra on 25.09.2004 and published in Divya Himachal and Times of India on 10.10.2004. Local publicity of the aforesaid notification was also done on 30.10.2004. Subsequently, notification under Sections 6 & 7 was published in H.P. Rajpatra on 20.08.2005 and it was published in Indian Express and Amar Ujala on 12.09.2005

and its local publicity was done on 20.08.2005. Ultimately, the Land Acquisition Collector announced Award No. 33, dated 20.12.2006.

3(a). The petitioners being dissatisfied with the aforesaid 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 at the flat rate of Rs.6,44,000/- per bigha, irrespective of the classification of the land with all the statutory benefits. Hence, the instant appeals preferred by the appellants-Land Acquisition Collector, HPPWD Central Zone, Mandi, and others.

5. The learned Deputy Advocate General for the appellants/State 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 Reference Court has erroneously relied upon

sale deed, Ex. PW-5/A, as the land pertaining to the aforesaid sale deed is situated in Mohal Katipari, whereas the land under acquisition is situated in Mohal Sanaid.

6. On the other hand, the learned Counsel for the 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 and the appeals, being without merit, be dismissed.

7. I have heard the learned Deputy Advocate General for the appellants, learned Counsel for the respondents (petitioners/claimants 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 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."

10. 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.”

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."

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 case, in order to prove their case, the petitioners/claimants had examined nine witnesses and they had also placed on record sale deeds, Ex.PW-1/A, Ex.PW-2/A, Ex.PW-3/A, Ex. PW-5/A and Ex. PW-5/B.

14. Shri Padam Singh appeared in the witness-box as PW-1 and he deposed that on 05.08.2014 he had purchased two biswas land in Mohal Katipari, Tehsil Padhar for Rs.1,16,000/- and the kind of the purchased land was similar to that of the acquired land. Shri Naresh Kumar, who appeared in the witness-box as PW-2 had tendered copy of

sale deed, Ex.PW-2/A, dated 27.12.2003. He had deposed that he had purchased one biswa and five biswasi land for Rs.60,000/- in Mohal Katipari, which was adjoining to Mohal Sanaid. Shri Jagdish Chand, who appeared in the witness-box as PW-3 deposed that on 29.09.2003 he had purchased one biswa land for Rs.70,000/- in Mohal Katipari. This witness had produced sale deed, Ex. PW-3/B. PW-4 Shri Lekh Raj Sharma, the then Patwari, deposed that boundaries of Mohal Sanaid and Katipari were adjoining to each other and the nature of the land in both mohals were same. He further deposed that Sanaid was one km away from Katipari. Shri Chhaju Ram, appeared in the witness-box as PW-5, tendered sale deeds, Ex.PW-5/A, dated 22.03.2004, and Ex.PW-5/B, dated 19.05.2004, whereby land was sold @ Rs.46000/- per biswa and @ Rs.51000/- per biswa, respectively.

15. In addition to the above witnesses, the petitioners/claimants had also examined PW-6 Shri Keshav Dass, PW-7 Shri Sohan Lal, PW-8 Shri Lalit Kumar and PW-9 Smt. Tara Devi. PW-6, PW-7 and PW-9 had tendered in evidence their affidavits. The aforesaid witnesses had supported the averments made in the petitions filed by the

petitioners before the learned Reference Court and also stated that the Collector had assessed very low compensation qua the acquired land and the compensation should have been at least forty lacs per bigha.

16. Smt. Tara Devi (PW-9) in her affidavit, Ex.PW-9/A, deposed that a *pucca* slab roofed house having nine rooms with attached kitchen, *verandha*, bath room and latrine, was constructed over the acquired land comprising khasra No. 271 and its value was not properly assessed.

17. On the other hand, respondents had examined only one witness, i.e., RW-1 Shri Duni Chand, the then Executive Engineer Quality Control Division, HPPWD, Division Mandi. This witness had filed his affidavit, Ex.RW-1/A, wherein he had affirmed on oath the material particulars and testified the contents of the reply filed by the respondents. In addition to examining RW-1, the respondents have also tendered sale deeds, Ex.R-1, dated 15.01.2004, whereby two biswas of land was sold @ Rs.2160/- per biswa, and Ex.R-2, dated 07.01.2004, vide which three biswas of land was sold @ Rs.6950/- per biswa.

18. The perusal of the record shows that vide sale deed, Ex. PW-1/A, dated 05.08.2014, 02 biswas of land was

sold for Rs.1,16,000/-, vide sale deed, Ex. PW-2/A, dated 27.12.2003, 01 biswa 05 biswansi of land was sold for Rs.60,000/-, vide sale deed, Ex.PW-3/A, dated 29.09.2003, 01 biswas of land was sold for Rs.70,000/-, vide sale deed, Ex. PW-5/A, dated 22.05.2004, land was sold @ Rs.46,000/- per biswa and vide sale deed, Ex.PW-5/B, dated 19.05.2004, land was sold @ Rs.51,000/- per biswa and the above mentioned lands were situated in Mohal Katipari, Tehsil Padhar.

19. The learned Deputy Advocate General first contended that the learned Reference court has erroneously relied upon sale deed, Ex. PW-5/A, as the land pertaining to the aforesaid sale deed is situated in Mohal Katipari, whereas the land under acquisition is situated in Mohal Sanaid. Thus the controversy between the parties is whether Mohal Sanaid can be treated as comparable with Mohal Katipari, for the purpose of determining the market value of the acquired lands. The petitioners have maintained that both the Mohals are situated close to each other and possess similar quality of lands. According to them, there is no difference in the physical features or agricultural potential of these Mohals and, therefore, the market value determined

for Mohal Katipari, can be taken as the basis for the present acquisition. On the other hand, the State has disputed this position. According to the state, both the Mohals have distinguishing geographical features which reduce the market value of the acquired lands. Therefore, before examining the question of compensation, it becomes necessary to examine the evidence relating to location, surrounding circumstances, quality of lands and geographical features.

20. The perusal of the impugned award reveals that for determining the market value of the land, learned Reference Court has relied upon sale deed, Ex.PW-5/A, wherein the land was sold for Rs.46,000/- per biswa, situated in Mohal Katipari. The appellants/State have failed to lead any evidence to the contrary that the said transaction, vide sale deed, Ex. PW-5/A, was not a bona fide transaction. It has also come in the evidence on record that no sale transaction has taken place in Mohal Sanaid within one year prior to notification, except Ex.R1 and Ex. R2. However, the aforesaid sale deeds cannot be relied upon for assessing the market value of the acquired land, as these said sale deeds would further reduce the compensation, as awarded by the

Land Acquisition Collector as vide sale deeds, Ex.R-1 and Ex.R-2, dated 15.01.2004 and 27.01.2004, land was sold in village Sanaid for Rs.2160/- per biswa and Rs.6950/- per biswas, respectively. It has come in the statement of PW-4 Shri Lekh Raj Sharma, the then Patwari, that boundaries of Mohal Sanaid and Katipari were adjoining to each other and the nature of the land in both the Mohals were same. Thus after carefully considering the evidence available on record, this Court is of the view that in the absence of any other direct evidence on record, the learned Reference Court has rightly taken into consideration sale deed, Ex. PW-5/A, while determining the market value of the land. Since the aforesaid sale deed pertained to a small piece of land, therefore, the learned Reference Court had assessed the market value of the acquired land @ Rs.6,44,000/- per bigha, irrespective of its classification by deducting 30% of the amount on the sale consideration of Rs.9,20,000/- per bigha. Therefore, no fault can be found with the findings of the learned Reference Court so far as the determination of the market value of the acquired land in the sum of Rs.6,44,000/- per bigha is concerned.

21. The learned Deputy Advocate General for the

appellant/State lastly contended that the learned Reference Court has erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land. However, this contention of the learned Deputy Advocate General is also devoid of any force. 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 **Smt. 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."

(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(2) (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.

23. In the case on hand also as the land was acquired as the single unit for the public purpose, i.e., for construction of National Highway No. 20, Pathankot-Jogindernagar-Road, therefore, the value of the land under acquisition is to be assessed as a single unit irrespective of its nature and classification 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 Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Deputy Advocate General that the learned Reference Court has erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land deserves to be rejected.

24. In view of what has been discussed hereinabove, the appeals, being without merits, deserve dismissal and are accordingly dismissed.

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

(Sushil Kukreja)
Judge

1st September, 2026
(virender)