

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

RFA Nos. 311/2017

Reserved on: 18.09.2026

Decided on: 08.10.2026

Ramesh Chand & ors. Appellants

Versus

The Land Acquisition Collector & anr. Respondents

Coram:

The Hon'ble Mr. Justice Romesh Verma, Judge.

*Whether approved for reporting?*¹

For the Appellants: Mr. R. K. Sharma, Sr. Advocate with Mr. Arun Kumar, Advocate.

For the Respondents: Mr. Diwakar Dev Sharma, Addl. A.G.

Romesh Verma, Judge

The instant appeal arises out of the award, dated 31.08.2017, whereby reference petition, as filed by the claimants/appellants came to be partly allowed and the amount of compensation was enhanced to the tune of

¹Whether reporters of the local papers may be allowed to see the judgment? Yes.

Rs.50,000/- per Marla in view of the judgment, as passed by the Hon'ble Supreme Court in ***Sunder vs. Union of India (2001) 7 SCC 211.***

2 The facts, as emerge, in the present case are that the land of the claimants/appellants, comprised in Khasra No. 567/266/1 measuring 02-14 marlas, situated in village Loharda, Tappa Bajuri, Tehsil and District Hamirpur, was acquired by the State of Himachal Pradesh. The Land Acquisition Collector, H.P. Public Works Department, passed the award No. 1, dated 04.04.2013, whereby a sum of Rs.8,44,506/- in respect of the suit property was awarded to the claimants, apart from compulsory acquisition charges @ 30% to the tune of Rs.2,53,351/- and amount @ 12% under Section 23 (IA) to the tune of Rs.76,005/-, loss of earning @ 9% to the tune of Rs. 15,575/-, totaling amount to the tune of Rs.13,03,267/-.

3 Feeling dissatisfied by the award, as passed by the LAC, the claimants filed a reference petition before the learned District Judge, Hamirpur, invoking Section 18 of the Land Acquisition Act for enhancement of the amount of compensation.

4 It was stated in the petition that the land acquired was near National Highway 88 and is a valuable land, situated near district headquarters of Hamirpur Town with all the facilities available. The suit land is suitable for the purpose of business as well as industry. It was stated that compensation as assessed by the LAC is inadequate and it is liable to be enhanced. As per claimants, the comparable sale instances of the vicinity were not taken into consideration. Moreover, about 100 fruit bearing trees were destroyed. The claimants/petitioners prayed for the enhancement of the compensation.

5 The reference petition came to be resisted by the State by raising preliminary objections with respect to maintainability, limitation, etc. On merits, all the allegations as made in the reference petition were denied. As per the stand as adopted by the State, the amount of compensation as assessed by the LAC was properly valued, according to the location of the land and on the basis of one-year average value at the time of notification under Section 4 of the Act. As per the State, the value has to be assessed as per location, utility, and other relevant factors. It was denied that on account of the

determination of compensation, the remaining land of the claimants/appellants has been affected. Therefore, the claimants are not entitled for enhanced amount of compensation. As per the respondents, all benefits as claimed, have already been disbursed in favour of the claimants/appellants

6 Rejoinder to the reply was filed by the claimants, wherein they reiterated the averments as made in the reference petition.

7 The learned reference Court, after framing the issues on 21.03.2014, directed the parties to adduce evidence in support of their contentions to corroborate their respective case. The learned Reference Court vide its award dated 31.08.2017 allowed the petition, whereby the the petitioners were held entitled to the enhanced compensation of the acquired land @ ₹50,000/- per Marla keeping in view the judgment of ***Sunder vs. Union of India, (2001) 7 SCC 211*** and in addition thereto, the petitioners were also entitled to:-

(a) solatium @ 30% under Section 23(2) of the Act on the compensation assessed under Section 23(1) of the Act;

(b) additional compensation under Section 23(1-A) of the Act @12% per annum on the market value determined above from the date of publication of the notification under Section 4 of the Act, till date of award of Collector;

(c) interest @ 9% per annum on the enhanced amount of compensation under Section 23(1), additional compensation under Section 23(1-A) and solatium under Section 23(2) of the Act from the date of notification under Section 4 of the Act for the first one year and thereafter @ 15% per annum;

(d) interest under Section 34 of the Act from the date of notification under Section 4 of the Act, if not paid by the Collector.

8 Still feeling aggrieved, the claimants have approached this court by filing the instant regular first appeal, under Section 54 of the Land Acquisition Act, for the enhancement of amount of compensation.

9 It is contended by Mr. R. K. Sharma, learned Senior Advocate, assisted by Mr. Arun Kumar, Advocate, for the appellants, that the impugned award as passed by the learned reference Court is liable to be modified to the extent that they are entitled to get the amount of compensation at the rate of Rs.1 lakh per marla. It is further contended that the learned

reference Court has erred by awarding a sum of rupees 50,000/- per marla, whereas there is substantial evidence placed on record which categorically establishes that the claimants are entitled for a sum of rupees 1 lakh per marla.

10 On the other hand, it is contended by Mr. Diwakar Dev Sharma, learned Additional Advocate General that no enhancement of any kind is required in the present proceedings as the award as passed by the learned reference Court is legal, valid, and sustainable and it does not call for any interference. It is further contended that the notification under Section 4 of the Land Acquisition Act was issued by the authorities on 15.11.2011, whereas the sale deed Exhibit PW-1/A, as relied upon by the claimants, is dated 20.07.2013. Therefore, sale deed being post-dated notification, it has got no relevance for the determination and adjudication of the case in hand.

11 I have heard the learned counsel for the parties and have also gone through the records of the case carefully.

12 In order to prove their case, the claimants examined PW-1, Vipin Kumar, who in his deposition stated that he is working as Registration Clerk at Tehsil Office, Hamirpur.

He stated that he has brought the summoned record and proved on record copies of the sale deed No. 1155, dated 20.07.2013, Ext. PW-1/A and sale deed No. 1041, dated 23.08.2004, Ext. PW-1/B. In his cross-examination, he stated that Ext. PW-1/A and Ext. PW-1/B were not pertaining to his period. He stated that the said documents were registered by Tehsildar.

13 PW-2, Ravi Kumar, stated that in petition No. 3 of 2013, titled as Asha Devi vs LAC, he was petitioner No. 4. As per this witness, in Mattan Sidh Hamirpur Road, the land of the claimants were acquired in the year 2005 and the LAC had assessed the award and the said award was challenged before the Civil Court. The Civil Court had assessed the value of the land at the rate of Rs.38,400/- per marla. The land, which has now been utilized, is also on the same bypass road. The land which was acquired earlier is adjacent to the land in question. The boundaries of Ward Nos. 10 and 11 are adjoining to the Committee. He stated that the land which was acquired by the respondents is at a distance of 50 meters from Ward No. 11. The land was acquired by the State in the year 2011 and at the relevant time, total value of the acquired land was Rs. 1 lakh

per marla. In the year 2011, the bypass road was not fully completed. The bypass road has yet not been operationalized. As per this witness, the left out land has become useless and it cannot be utilized for any other purpose. He has stated that the entire land has been damaged and the same is of no use as they have to construct retaining walls in order to retain the said land.

14 In cross-examination, he denied that the department has erected retaining walls wherever the need had arisen. He denied that land was not damaged by the respondents. He denied that the amount has been paid to them qua the disputed land on the same analogy with respect to the land, which was acquired in 2005. He denied that the land which was utilized in 2005 is not adjacent to the acquired land. He denied that the disputed land is situated about 5 to 6 kilometers away from the main town. He denied the suggestion that as per the average value, the payment has been rightly assessed and paid to the claimants.

15 The claimants had placed on record the copy of the sale deed Ext. PW-1/A, dated 20.07.2013, vide which the land measuring 8 Marlas has been sold for a consideration of Rs.

5,00,000/- in the same village, which comes to Rs.62,500/- per Marla. In order to rebut the case of the claimants, the respondents had placed on record copy of the sale deeds dated 27.01.2011, 31.12.2011, 21.06.2011, 25.06.2011, 28.09.2011 and 03.10.2011, Ext. R-1 to Ext. R-6 respectively. The highest value of the sale deed, Ext. R6 pertaining to year 2011, as has been relied upon by the respondents comes to Rs. 54,600/- per marla.

16 As observed above, the learned reference Court, vide its award dated 31.08.2017, accepted the reference petition and passed an award of Rs. 50,000/- per marla apart from other statutory benefits, keeping in view the judgment of **Sunder versus Union of India, 2001 (7) SCC 211**.

17 Admittedly, the land of the present appellants/ claimants was utilized by the present respondents. The Land Acquisition Collector passed the award bearing No.1 dated 04.04.2013.

18 It is contended by the learned Senior Counsel that since sale deed, Ext. PW-1/A has been placed on record and duly proved, therefore, the assessment as made by the learned reference court @ Rs. 50,000/- per marla is erroneous and

incorrect, and liable to be quashed and set aside. He has submitted that the sale deed, on the face of it, shows that sale transaction @ Rs.62,500/- per marla was done. He submitted that in view of the material placed on record and the price index, present appellants are entitled to get enhanced amount of compensation @ Rs.1 lakh per marla.

19 The learned counsel for the respondent has refuted the contention as raised by the learned Senior Counsel for the appellants and he has submitted that as the notification under Section 4 was issued on 15.11.2011, and the sale deed dated 20 July 2013 is subsequent to the same, therefore, it cannot be taken into consideration for the assessment and enhancement of compensation.

20 In ***Mehta Ravindrarai Ajitrai (deceased) by LRs) vs. State of Gujarat, AIR 1989 SC 2051***, the Hon'ble Supreme Court has held as under:-

4. We do not feel called upon to enter into a detailed scrutiny of the evidence led by the parties before the learned Civil Judge. The main instance relied upon by the claimants was by way of an agreement to sell dated January 21, 1957 and a sale deed dated April 2, 1957 in respect of the sale of 42552 square yards of land out of survey No. 333/2 which is adjoining the land with which

we are concerned which forms part of survey No. 33 1. The land sold under this instance was known as "Kesarbagh" and was sold to Mahalaxmi Mills Limited by Prince Nirmal kumar singhji. The rate at which it was sold works out to Rs.3 per sq. yard. On the basis of this instance, the claimants had made their claim at Rs.3 per sq. yard before the Land Acquisition Officer. The High Court inter alia rejected this instance on the basis that the contents of the sale deed were not properly proved. However, after an order for remand made by this Court on August 25, 1981 evidence has been led regarding this sale and the sale deed has been duly proved by the evidence of one Dharamdas, a director of Mahalaxmi Mills Limited, the purchaser, and the vendor Prince Nirmal kumar singhji. It was marked originally as Exhibit 87 and after the evidence on remand as Exhibit 152. The evidence shows that this land was just adjacent to the land of the purchaser, Mahalaxmi Mills Limited. The agreement of sale is dated January 21, 1957 and the conveyance or sale-deed is dated April 2, 1957 as aforesaid. The price has been fixed under the agreement of sale. This agreement of sale was entered into about five months after the publication of [section 4](#) notification in the case before us The High Court rejected the said instance on the ground that the contents of the sale-deed were not proved although the execution was thereof duly proved. In view of the evidence led after remand, it cannot be disputed that this agreement of sale as well as the sale deed have been duly proved and they have been duly marked as exhibits. The High Court further took the view

that in any event, no reliance could be placed on this instance of sale because the acquisition of the land in question before us was for the construction of an industrial estate at Bhavnagar and such construction was bound to have pushed up the price of land in the surrounding area. There is, however, nothing in the evidence to show that there was any sharp or speculative rise in the price of the land after the acquisition and this has been noticed by the High Court. It appears that under these circumstances, the High Court was not justified in not taking this instance into account at all as it has done on the ground that it was a post-acquisition sale and could not be regarded as a comparable instance at all. The market value of a piece of property for purposes 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. (See: Administrator General of West Bengal v. Collector, Varanasi, [1988] 2 SCC 150 at para 8)

5. Keeping these factors in mind, we feel that although the instance reflected in the sale deed (Exhibit 152) and the agreement for sale in connection with that land, pertains to a sale after the acquisition, it can be fairly regarded as reasonably proximate to the acquisition and, in the absence of any evidence to show that there was any speculative or sharp rise in the prices after the acquisition

the agreement to sell dated January 21, 1957 must be regarded as furnish- ing some light on the market value of the land on the date of publication of section 4 notification. However, certain factors have to be taken into account and appropriate deduc- tions made from the rate disclosed in the said agreement to sell in estimating the market value of the land with which we are concerned at the date of the acquisition. One of these factors is that there seems to have been some rise in the price of land on account of the acquisition of the land in question before us for purposes of constructing an indus- trial estate. Another factor is that the land proposed to be purchased under the said agreement to sell was adjoining the land of the purchaser and the purchaser might have paid some extra amount for the convenience of getting the neighbouring land.

21 In **Karan Singh vs. Union of India, AIR 1997 SC 3889**, the Hon'ble Supreme Court has held as under:-

"7. Before we part with the first argument of learned counsel for the appellants, we would like to notice the two decisions in the cases of State of U.P. vs. Major Jitendra Kumar and others, AIR 1982 SC 876 and in Mehta Ravindraraaj Ajitrai (deceased by LRs) and others vs. State of Gujarat, AIR 1989 SC 2051, relied upon by the learned counsel for the appellants. In these cases there is no controversy as to whether the burden to establish that there was no rise in price of land after the issue of

notification under Section 4 of the Act, was on the claimant or on the State, and as such, these decision are of no assistance for deciding the controversy at hand. For these reasons we are of the opinion that the High Court did not commit any error in rejecting Ext. A-8, Ext. A-9, Ext. A-10, Ext. A-12 and Ext. A-13 while arriving at the market value of the acquired land.

8. Learned counsel for the appellants then urged that the High Court erroneously discarded Ext. A-11 which was an award in respect of a land at village Jhilmil Tahirpur on the ground that it was not a previous judgment of the Court. The land comprised in the award was acquired under notification issued under Section 4 of the Act on 27.7.81. By the said award, the Court awarded compensation @ Rs. 625/- per sq. yds. It has earlier been seen that in the present case the notification issued under [Section 4](#) of the Act was earlier in point of time than the notification issued for acquisition of land comprised in Ext. A-11. There is no quarrel with the proposition that judgments of Courts in land acquisition cases or awards given by the Land Acquisition Officers can be relied upon as a good piece of evidence for determining the market value of the land acquired under certain circumstances. One of the circumstances being that such an award or judgment of the Court of the Court of law must be a previous judgment. In the case of Pal Singh and others vs. Union Territory of Chandigarh, JT 1992 (5) SC 371, it was observed thus:-

"But what cannot be overlooked is, that for a judgment relating to value of land to be admitted in evidence either as an instance or as one from which the market value of the acquired land could be inferred or deduced, must have been a previous judgment of Court and as an instance, it must have been proved by the person relying upon such judgment by adducing evidence aliunde that due regard being given to all attendant facts and circumstances, it could furnish the basis for determining the market value of the acquired land."

Following this decision, we hold that it is only the previous judgment of a Court or an Award which can be made basis for assessment of the market value of the acquired land subject to party relying such judgment to adduce evidence for showing that due regard being given to all attendant facts it could form the basis for fixing the market value of acquired land."

22 The Hon'ble Supreme Court in **Atma Singh (dead) through LRs vs. State of Haryana, (2008) 2 SCC 568**, has held as under:-

"7. The claimant-appellants (landowners) had filed copies of four sale deeds which are Exs.P-7, P-8, P-9 and P-10. In fact, Ex. P-7 is a copy of a sale deed by which Laxman Singh bought some land in village Chhapra on 28.7.1982, which itself became subject matter of acquisition. Laxman Singh had deposed that he had bought the land for

construction of shops. All these four sale deeds related to sale transactions prior to the issuance of the notification under [Section 4](#) of the Act on 9.2.1983. The High Court excluded Ex.P-8 from consideration as it related to a very small piece of land measuring 19 marlas only. The average price of the three sale deeds viz. Ex. P-7, P- 9 and P-10 came to little more than Rs.1,20,000/- per acre. Apart from these three sale deeds, no other exemplars were filed either by the State of Haryana or by the landowners. The High Court accepted the price exhibited by the aforesaid three sale transactions which came to little more than Rs.1,20,000/- per acre. It thus recorded a finding that the market value of the land was Rs.1,20,000/- per acre. In our opinion, there being no other documentary evidence, the view taken by the High Court that the market value of the land was Rs.1,20,000/- per acre is perfectly correct and calls for no interference.

8. Shri Rakesh Dwivedi, learned senior counsel for the sugar mill has submitted that the exemplars filed by the appellants were of very small pieces of land and, therefore, they are not safe guide to determine the market value of the land. It may be mentioned here that while determining the market value, the potentiality of the land acquired has also to be taken into consideration. The appellants have led evidence to show that the acquired land had the potentiality to be used for commercial, industrial and residential purposes. PW.1 Rakesh Kumar had prepared a site plan which showed that the acquired

land was adjacent to the abadi of Shahabad and abutted the Shahabad-Ladwa Road. The site plan also shows that there existed rice shellers, cold storage, shops, godowns, a college and houses etc. on both sides of Shahabad-Ladwa Road. PW.2 Baldev Singh was Patwari of village Chhapra in the year 1983. He deposed that all the four villages viz. Kankar Shahbad, Chhapra, Jandheri and Jhambara are adjacent to each other and the acquired land abutted the Shahabad- Ladwa Road. He further deposed that the acquired land was 2 kilometer from G.T. Road and there were buildings, godowns, a cinema hall, factories on both sides of the Shahabad-Ladwa Road. Therefore, there can be no manner of doubt that the acquired land had the potentiality for being used for commercial, industrial and residential purposes and there was fair possibility of increase in its market value in the near future. Therefore, the fact that the exemplars filed by the appellants were of the small pieces of land could not be a ground to discard them specially when exemplars of large pieces of land were not available. They could, therefore, be used as a safe guide for determining the market value of the land.”

23 The appellants/claimants, save and except, sale deed Ext. PW-1/A, for a sale consideration of Rs. 62,500/- per Marla, which admittedly on the face of record is subsequent to

the notification as issued under Section 4 of the Land Acquisition Act, has not been able to place on record any other sale deed, whereas the respondents/State have placed on record sale deeds, Ext. R-1 to R-6 to be an exemplar for determining the value of the acquired land.

24 The learned Senior Counsel for the claimants/appellants could not plead or prove on record any material which could demonstrate that the claimants are entitled to Rs.1 lakh per marla, as projected by them in the instant appeal or that the learned reference court had passed the award contrary to the legal principle of law as laid down by the Hon'ble Apex Court or any case law which may help them for the enhancement of the amount of compensation, as claimed. However, perusal of the sale deeds, as have been placed on record and relied upon by the respondents to evaluate to land value, would go to show that the highest sale consideration is Rs. 54,600/- per Marla as per sale deed, Ext. R-6 pertaining to year 2011, whereas except sale deed Ext. PW-1/A, as relied upon by the claimants, establishing the value of land to be Rs.62,500/- per Marla, which admittedly is later in time vis a vis notification issued under Section 4 of the Act, no

material has been placed on record by the appellants to corroborate their claim of compensation @ Rs. 1 lakh per marla. Therefore, after perusing all the material available on record, this Court is of the considered opinion that the learned Reference ought to have considered the sale deed, Ext. R-6, as has been relied upon by the respondents/State, vis-à-vis sale deed Ext. PW-1/A to grant compensation to the claimants for acquisition of the suit land. Thus, after taking into consideration the sale deeds, as placed on record by the respective parties, the petitioners are held entitled to average market value to the extent of Rs. 55,000/- per Marla. Ordered accordingly.

25 Consequently, the claimants are entitled to Rs.55,000/- per Marla, apart from the statutory benefits as granted by the learned Reference Court. The impugned award is modified to the above extent.

26 The instant appeal stands partly allowed in the aforesaid terms. Pending application(s), if any, also stands disposed of.

08.10.2026

(Romesh Verma)
Judge

(pankaj)