

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

**RFA No. 235 of 2014 with RFA
No. 234 of 2014**

**Reserved on: 30.06.2026
Date of decision: 31.07.2026
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31.07.2026**

1. RFA No. 235 of 2014:

H.P. Housing & Urban Development Authority & another
.....Appellants.

Versus

Deepak Sharma & another
.....Respondents.

2. RFA No. 234 of 2014:

Deepak Sharma & another
.....Appellants.

Versus

Land Acquisition Collector & another
.....Respondents.

Coram

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

¹ *Whether approved for reporting?*

RFA No. 235 of 2014:

For the appellants:	Mr. Bhupender Gupta, Senior Advocate, with Mr. Pranjal Munjal, Advocate.
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For the respondents:	Mr. Sanjeev Kuthiala, Senior Advocate, with Ms. Tamanna Sharma, Advocate.
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RFA No. 234 of 2014:

For the appellants:	Mr. Sanjeev Kuthiala, Senior Advocate, with Ms. Tamanna Sharma, Advocate.
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¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

For the respondents: Mr. Bhupender Gupta, Senior Advocate, with Mr. Pranjal Munjal, Advocate.

Sushil Kukreja, Judge.

Since the instant appeals are the offshoots of impugned award, dated 05.03.2014, the same are taken up together for consideration and disposal.

2. RFA No. 235 of 2014, has been preferred by appellants, i.e., H.P. Housing & Urban Development Authority and Land Acquisition Collector, H.P. Housing & Urban Development Authority, who were respondents before the learned Reference Court (hereinafter referred to as “the respondents”), under Section 54 of the Land Acquisition Act (for short “the Act”), against impugned award, dated 05.03.2014, passed by learned Additional District Judge-I, Solan, District Solan, H.P. Camp at Nalagarh (hereinafter referred to as “the learned Reference Court”), whereby the Reference Petition No. 47-NL/4 of 2009, preferred by the petitioners, i.e., Shri Deepak Sharma and Shri Prem Lal, who are appellants in RFA No. 234 of 2014 (hereinafter referred to as “the petitioners/claimants”), under Sections 18, 23 and 28 of the Act, was allowed.

3. On the other hand, RFA No. 234 of 2014 has

been preferred by the appellants (petitioners/claimants) under Section 54 of the Land Acquisition Act, against impugned award, dated 05.03.2014, passed by the learned Reference Court, whereby the aforesaid reference petition, preferred by the petitioners/claimants allowed, with a prayer to modify the impugned award by enhancing the amount of compensation.

4. The brief facts of the case are that the petitioners/claimants filed reference petition before the learned Reference Court wherein they challenged the correctness of award, dated 18.02.2009, passed by Land Acquisition Collector (respondent No. 1), whereby the market value of the acquired land was assessed @ Rs.8,07,540/- per bigha.

4(a). The petitioners/claimants averred that on 15.11.2007 notification under Section 4 of the Act was issued, whereby land was acquired, comprised in Khasra No. 182/2, 183 to 189 and 192, measuring 31 bighas, 19 biswas, out of which petitioner No. 1-Shri Deepak Sharma was owner of 20 bighas 7 biswas and rest of the land was owned by petitioner No. 2-Shri Prem Lal. The aforesaid land was situated in village Bhatauli Khurd and it was acquired by

respondent No. 2, i.e., Himachal Pradesh Urban Development Authority (HIMUDA) for the construction of Housing Colony. Subsequently, notifications under Sections 6 and 7 of the Act were published on 30.07.2008 and after the completion of all the codal formalities, respondent No. 1, i.e., Land Acquisition Collector passed award dated 18.02.2009, whereby land under acquisition was assessed @ Rs.8,07,540/- per bigha.

4(b). The Reference Court, after hearing the learned counsel for the parties and after examining the entire record, allowed the reference petition and held the petitioners entitled to enhanced compensation of the acquired land @ Rs.9,10,000/- per bigha.

5. Feeling aggrieved, the appellants, i.e., H.P. Housing & Urban Development Authority and Land Acquisition Collector, H.P. Housing & Urban Development Authority filed RFA No. 235 of 2014 against the impugned award with a prayer to set-aside the same and to dismiss the reference petition/modify the impugned award. On the other hand, petitioner/claimants filed RFA No. 234 of 2014 against the impugned award with a prayer to allow their appeal and modify the impugned award by enhancing the compensation.

6. Learned Senior Counsel for the appellants-HIMUDA contended that the Reference Court had erred in law in ignoring the exemplar sale deeds, Ex.RW-1/A to Ex. RW-1/H, on erroneous considerations. He further contended that the Reference Court had erred in law in holding that the acquired land had great potential for industry, including the purpose of acquisition and also erred in law in giving the deduction of only 30% on the market value assessed, whereas more amount should have been deducted on the basis of development charges.

7. On the other hand, the learned Senior Counsel for the petitioners/claimants contended that the Reference Court had failed to take into consideration the sale deeds, Ex.PW-1/A, Ex.PW-1/B and Ex.PW-2/A, without assigning any reason, which have been executed earlier to the issuance of notification under Section 4 of the Act. He further contended that the market value assessed by the Reference court is inadequate and it needs to be enhanced, as the value of land at the time of the notification under Section 4 of the Act was not less than Rs.17,00,000/- per bigha.

8. I have heard the learned Senior Counsel for the

appellants, learned Senior Counsel for the respondents in the respective appeals and carefully examined the entire 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 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.

10. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs & 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 (Dead) through LRs & others vs. State of Haryana & another, (2008) 2 Supreme Court Cases 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 (see *Special Land Acquisition Officer v. T. Adinarayan Setty* AIR 1959 SC 429)."**

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. Thus, while fixing the market value of the acquired land, what are required to be kept in mind are the geographical situation of the land; the existing use of the land and the location as well as other advantages appurtenant to the land. The market value of the other land situated in the same locality or adjacent locality would also be an important factor for determination of the reasonable market value of the acquired land. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle.

15. Now the question which arises for consideration before this Court is as to whether the Reference Court was justified and was correct in fixing the market value of the land

in question at Rs.9,10,000/- per bigha on the basis of the evidence adduced and whether the Reference Court had any mechanism in mind so as to come to a valuation/price of the acquired land.

16. In the instant case, in order to prove their case, the petitioners have placed reliance upon sale deeds, Ex. PW-1/A & Ex. PW-1/B both dated 31.08.2007, and sale deed Ex. PW-2/A, dated 25.03.2006. The petitioners had examined Shri Ravinder Kumar (PW-1), who was proprietor of Chaudhary Developers and Promoters, a Private Limited Company, which had purchased land measuring 1 bigha, 4 biswas and 4 bighas, 6 biswas, situated in Mauja Bhatauli Khurd from Shri Sita Ram, Shri Gurdyal Singh (PW-3) etc., at Rs.17,00,000/- per bigha. PW-1 had proved sale deeds, Ex.PW-1/A and Ex.PW-1/B. The petitioners also examined Shri Navneet Kumar, as PW-4, who was one of the attesting witnesses to sale deeds Ex. PW-1/A and Ex. PW-1/B, which were also exhibited as Ex.PW-3/A and Ex.RW-3/B. In order to prove sale deed, Ex. PW-2/A, dated 25.03.2006, the petitioners had examined PW-2 Shri Vimal Gupta, Advocate, who was counsel of M/s Abbott Health Care, who had purchased land measuring 3 bighas 4 biswas, situated in

mauja Bhatauli Khurd from the vendors for total consideration of Rs.51,60,000/-.

17. On the other hand, respondents have relied upon sale deeds, Ex. RW-1/A, dated 27.01.2006, Ex. RW-1/B, dated 24.01.2005, Ex. RW-1/C, dated 30.07.2005, Ex. RW-1/D, dated 25.04.2006, Ex. RW-1/E, dated 24.04.2006, Ex. RW-1/F, dated 21.04.2005, Ex. RW-1/G, dated 17.04.2005 and Ex. RW-1/H, dated 21.09.2005. The above sale deeds had been produced by the respondents by examining Shri Prittam Chand (RW-1), the then Sub Registrar, Nalagarh. Shri Bhagat Ram (RW-2), power of attorney of the vendor in respect of sale deed, Ex. RW-1/G and Shri Premu (RW-3), brother of vendor of sale Ex. RW-1/G, were also examined. The aforementioned sale deeds pertain to land(s) situated in Mauza Bhatauli Khurd. The details of the sale deeds are as under:

Sale deed	Land Sold	Consideration amount
Ex. RW-1/A	7 biswas	Rs.40,000/-
Ex. RW-1/B	5 bighas	Rs.5,50,000/-
Ex. RW-1/C	3 biswas	Rs.25,000/-
Ex. RW-1/D	4 biswas	Rs.75,000/-
Ex. RW-1/E	13 biswas	Rs.2,40,000/-
Ex. RW-1/F	4 bighas 17 biswas	Rs.10,00,000/-
Ex. RW-1/G	4 bighas 14 biswas	Rs.4,93,500/-
Ex. RW-1/H	4 bighas 16 biswas	Rs.15,75,000/-

18. Sale deeds RW-1/A, Ex. RW-1/D and Ex. RW-1/E,

pertain to first half of the year 2006 whereas sale deeds, EX.RW-1/B, Ex.RW-1/C, Ex.RW-1/F to Ex.RW-1/H pertain to the year 2005. However, in all these sale transactions, the consideration amount of one bigha of land is much less than the amount as determined by the Land Acquisition Collector @ Rs.8,07,540/- per bigha. Section 25 of the Act provides that the compensation awarded by the Reference Court could not be lower than the amount awarded by the Land Acquisition Collector. Hence, these sale deeds, EX.RW-1/A to Ex.RW-1/H, produced by the respondents are liable to be altogether ignored, in view of the provisions contained in Section 25 of the Act. Therefore, it is safe to hold that consideration amount shown in Ex.RW-1/A to Ex.RW-1/H does not show the correct market value of the acquired land.

19. The petitioners had produced sale deeds, Ex.PW-1/A, Ex.PW-1/B and Ex.PW-2/A, to demonstrate that the market value of the land in that area, on the date of notification, was about Rs.17,00,000/- per bigha. Shri Gurdyal Singh (PW-3) in his affidavit, which was tendered in evidence, stated that in the year 2004 industrial package was announced in State of H.P. and from 2005 big factories started coming up near the acquired land. He also deposed

that subsequently, there was steep hike in the price of land located in his village. As per this witness, the acquired land was plain and connected by road. Shri Navneet Kumar (PW-4) also tendered in evidence his affidavit, wherein he deposed that big factories came up in their village and due to that the market price of their land(s) increased. As per this witness, their land was situated at better place and the same was linked by road. Shri Deepak Kumar (PW-5) in his affidavit in evidence deposed that near the acquired land new factories came up and the same were connected by road. As per this witness, the acquired land, from business point of view, was located at prime location.

20. It has also come in the statements of PWs Gurdyal Singh, Navneet and Deepak Kumar that industrial activities were going on around the acquired land and the adjacent land was also connected by road. The respondents did not specifically controvert the above aspects, therefore, it is safe to hold that the acquired land was not very far away from the industrial area. Hence, in view of the statements of the above witnesses, it is manifest that after the commencement of the industrial activity in the area, the prices of the land in the nearby area to the core of industrial

area saw a steep hike.

21. Learned counsel appearing for the land-owners submitted that the market value of the acquired land as determined by the Reference Court is inadequate, rather in view of the potentiality of the acquired land, it ought to have been more than what was assessed by the Reference Court. According to the learned counsel, the sale instances, Ex. PW-1/A & Ex. PW-1/B both dated 31.08.2007, and sale deed Ex. PW-2/A, dated 25.03.2006 were erroneously ignored by the learned Reference Court while determining the market value of the land under acquisition.

22. The perusal of sale deed, Ex.PW-1/A, dated 31.08.2007, shows that the land measuring 01 bighas, 04 biswas, situated in village Bhatauli-Khurd was sold at the rate of Rs.20,40,000/- and vide sale deed, Ex.PW-1/B, dated 31.08.2007, the land measuring 04 bighas and 06 biswas was sold in the same Mauja for Rs.73,10,000/- per bigha. Similarly, vide sale deed, Ex. PW-2/A, dated 25.03.2006, land measuring 03 bighas and 04 biswas was sold in the same mauja for Rs.51,60,000/-. However, the learned Reference Court had failed to take into consideration the above sale deeds without assigning any cogent reason

despite the fact that the subject matter of the land vide the aforesaid sale deeds is situated in same Mauja Bhatauli-Khurd wherein the land under acquisition is situated. There is nothing on record to suggest that the aforesaid sale transactions are not *bonafide* transactions. The execution of these sale deeds is prior to the date of issuance of notification under section 4 of the Act as such these sale deeds can be considered as sale exemplars for determining and assessing the market value of the acquired land.

23. As per sale deeds, Ex.PW-1/A, and Ex.PW-1/B, the consideration amount of one bigha of land comes out to Rs.17,00,000/- per bigha, whereas, as per the sale deed, Ex. PW-2/A, the consideration amount comes to Rs 16,12,500/-. It is a settled law that where there are various sale deeds, then highest of the sale exemplars has to be taken into consideration and not by averaging of different types of sale transactions. In ***State of Punjab & another vs. Hans Raj (dead) by LRs Sohan Singh & others, (1994) 5 SCC 734,*** the Hon'ble Supreme Court has held as under:

"4. Having given our anxious consideration to the respective contentions, we are of the considered view that the learned Single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales

*of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method.
... ..*

24. In **Anjani Molu Dessai vs. State of Goa & another, (2010) 13 SCC 710**, the Hon'ble Supreme Court has held as under:

"20. The legal position is that even where there are several exemplars with reference to similar lands, usually the highest of the exemplars, which is a bona fide transaction, will be considered. Where however there are several sales of similar lands whose prices range in a narrow bandwidth, the average thereof can be taken, as representing the market price. But where the values disclosed in respect of two sales are markedly different, it can only lead to an inference that they are with reference to dissimilar lands or that the lower value sale is on account of under-valuation or other price depressing reasons. Consequently averaging cannot be resorted to. We may refer to two decisions of this Court in this behalf.

21. In **M. Vijayalakshamma Rao Bahadur v. Collector, (1969) 1 MLJ 45 (SC)**, a three-Judge Bench of this Court observed that the proper method for evaluation of market value is by taking the highest of the exemplars and not by averaging of different types of sale transactions. This Court held:

"It seems to us that there is substance in the first contention of Mr. Ram Reddy. After all, when the land is being compulsorily taken away from a person, he is entitled to say that he should be given the highest value which similar land in the locality is shown to have fetched in a bona fide transaction entered into between a willing purchaser and a willing seller near about the time of the acquisition. It is not disputed that the transaction represented by Exhibit R-19 was a few months prior to the notification under section 4, that it was a bona fide transaction and that it was entered into between a willing purchaser and a willing seller. The land comprised in the sale deed is 11 grounds and was sold at Rs.1,961 per ground. The land covered by Exhibit-27 was also sold before the

notification, but after the land comprised in Exhibit R-19 was sold. It is true that this land was sold at Rs.1,096/- per ground. This, however, is apparently because of two circumstances. One is that betterment levy at Rs.500 per ground had to be paid by the vendee and the other that the land comprised in it is very much more extensive, that is about 93 grounds or so. Whatever that may be, it seems to us to be only fair that where sale deed, pertaining to different transactions are relied on behalf of the Government, that representing the highest value should be preferred to the rest unless there are strong circumstances justifying a different course. In any case we see no reason why an average of two sale deeds should have been taken in this case."

22. *In State of Punjab v. Hans Raj, (1994) 5 SCC 734, this Court held:*

"4. Having given our anxious consideration to the respective contentions, we are of the considered view that the learned single Judge of the High Court committed a grave error in working out average price paid under the sale transactions to determine the market value of the acquired land on that basis. As the method of averaging the prices fetched by sales of different lands of different kinds at different times, for fixing the market value of the acquired land, if followed, could bring about a figure of price which may not at all be regarded as the price to be fetched by sale of acquired land. One should not have, ordinarily recourse to such method. It is well settled that genuine and bonafide sale transactions in respect of the land under acquisition or in its absence the bona fide sale transactions proximate to the point of acquisition of the lands situated in the neighborhood of the acquired lands possessing similar value or utility taken place between a willing vendee and the willing vendor which could be expected to reflect the true value, as agreed between reasonable prudent persons acting in the normal market conditions are the real basis to determine the market value."

23. *Therefore, we are of the view that the averaging of the prices under the two Sale Deeds was not justified. The Sale Deed dated 31.1.1990 ought to have been excluded for the reasons stated above. That means compensation for the acquired lands had to be fixed only with reference to the Sale Deed dated 30.8.1989 relied upon by the Land Acquisition Collector which will be Rs.57.50 per sq.m. As the said*

market value has been fixed with reference to comparable bharad land with fruit trees, the question of again separately awarding any compensation for the trees situated in the acquired land does not arise."

25. In the case on hand, since sale deeds, Ex. PW-1/A and Ex. PW-1/B, are the highest of the exemplars, therefore, in view of the aforesaid judgments, the sale deeds, Ex. PW-1/A and Ex. PW-1/B dated 31.08.2007, produced by the petitioners which were registered just about three months prior to the date of issuance of notification under Section 4 of the Act, dated 15.11.2007, are the best evidence to be relied upon for the purpose of determining the market value of the land under acquisition. Therefore, as per sale deeds, Ex. PW-1/A and Ex. PW-1/B, the market value of the land under acquisition is assessed at Rs.17,00,000/- per bigha.

26. It is by now well settled position of law that normally deduction is to be applied on account of carrying out development activities like providing roads or civic amenities such as electricity, water, etc. when the land has been acquired for construction of residential, commercial or institutional projects. In ***Lal Chand vs. Union of India, 2009 15 SCC 769***, the Supreme Court indicated that percentage of

deduction for development to be made for arriving at market value of large tracts of undeveloped agricultural land with potential for development can vary between 20 and 75 per cent of the price of developed plots and observed:

- "14. The 'deduction for development' consists of two components. The first is with reference to the area required to be utilized for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilize around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.**
- 15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of leveling the land, cost of providing roads, underground drainage and sewage facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.**
- 16. On the other hand, if the residential plot is in an unauthorized private residential layout, the percentage of "deduction for development" may be far less. This is because in an unauthorized layout, usually no land will be set apart for parks, playgrounds and community facilities. Even if any land is set apart, it is likely to be minimal. The roads and drains will also be narrower, just adequate for movement of vehicles. The amount spent on development work would also be comparatively less and minimal. Thus the deduction on account of the two factors in respect of plots in unauthorized layouts, would be only about 20% plus 20% in all 40% as against 75% in regard to DDA plots.**
- 17. The "deduction for development" with reference to prices of plots in authorized private residential layouts may range between 50% to 65% depending upon the standards and quality of the layout.**
- 18. The position with reference to industrial layouts will be different. As the industrial plots will be large (say of the size of one or two acres or more**

as contrasted with the size of residential plots measuring 100 sq m to 20 sq m), and as there will be very limited civic amenities and no playgrounds, the area to be set apart for development (for roads, parks, playgrounds and civic amenities) will be far less; and the cost to be incurred for development will also be marginally less, with the result the deduction to be made from the cost of an industrial plot may range only between 45% to 55% as contrasted from 65% to 75% for residential plots.

19. *If the acquired land is in a semi-developed urban area, and not an undeveloped rural area, then the deduction for development may be as much less, that is, as little as 25% to 40%, as some basic infrastructure will already be available. (note the percentages mentioned above are tentative standards and subject to proof to the contrary.)*
20. *Therefore the deduction for the 'development factor' to be made with reference to the price of a small plot in a developed layout, to arrive at the cost of undeveloped land, will be for more than the deduction with reference to the price of a small plot in an unauthorized private layout or an industrial layout. It is also well known that the development cost incurred by statutory agencies is much higher than the cost incurred by private developers, having regard to higher overheads and expenditure."*

27. In the case of ***Trishala Jain & another vs. State of Uttarakhand & another, reported in (2011) 6 SCC 47***, the Hon'ble Supreme Court held that deduction on account of expenses of development of the sites could vary from 10% to 86.33% depending on the nature of the land, its situation, the purpose and stage of development. Their lordships further held that the cases where the acquired land itself is fully developed and has all essential amenities, before acquisition, for the purpose for which it is acquired requiring no additional expenditure for its development, falls under the

purview of cases of 'no deduction'. It has been held as follows:

"41. The cases where the acquired land itself is fully developed and has all essential amenities, before acquisition, for the purpose for which it is acquired requiring no additional expenditure for its development, falls under the purview of cases of 'no deduction'. Furthermore, where the evidence led by the parties is of such instances where the compensation paid is comparable, i.e. exemplar lands have all the features comparable to the proposed acquired land, including that of size, is another category of cases where principle of 'no deduction' may be applied. These may be of the cases where least or no deduction could be made. Such cases are exceptional and/or rare as normally the lands which are proposed to be acquired for development purposes would be agricultural lands and/or semi or haphazardly developed lands at the time of issuance of notification under Section 4(1) of the Act, which is the relevant time to be taken into consideration for all purposes and intents for determining the market value of the land in question.

44. It is thus evident from the above enunciated principle that the acquired land has to be more or less developed land as its developed surrounding areas, with all amenities and facilities and is fit to be used for the purpose for which it is acquired without any further expenditure, before such land could be considered for no deduction. Similarly the sale instances even of smaller plots could be considered for determining the market value of a larger chunk of land with some deduction unless, there was comparability in potential, utilization, amenities and infrastructure with hardly any distinction. On such principles each case would have to be considered on its own merits.

45. This Court, depending on the facts and circumstances of each given case, has taken the view that deduction on account of expenses of development of the sites could vary from 10% to 86.33% depending on the nature of the land, its situation, the purpose and stage of development. Reference can be made to the cases of K.S. Shivadevamma v. Assistant Commissioner and Land Acquisition Officer [(1996) 2 SCC 62], Ram Piari v. Land Acquisition Collector, Solan [(1996) 8 SCC 338], Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona [(1988) 3 SCC 751], Hasanali Walim Chand (Dead) by L` v. State of Maharashtra [(1998) 2 SCC 388]."

India vs. Raj Kumar Baghal Singh & ors., reported in **(2014) 10 SCC 422**, has held that deduction towards development costs depends on individual fact situations and in this case their lordships have upheld deduction of 20%. It has been held as follows:

"9. We have considered the rival submissions. Before considering the merits of the rival contentions, we consider it appropriate to refer to the discussion on the issue by the High Court which is as follows:- "In the present case, situation is altogether different. While deciding issue regarding cut, referred to above, argument of counsel for the Union of India that cut imposed is required to be enhanced is also liable to be rejected. In view of situation the land under acquisition, as referred to above, cut imposed to the extent of 20% was perfectly justified. Counsel for the Union of India has tried to support his argument by citing various judgments but no benefit of those judgments can be extended to Union of India because at the time when matter was argued before Additional District Judge, no serious dispute was raised by Union of India regarding potential value of the land under acquisition. No evidence was led to show that the land acquired had no potential for developing it into residential or commercial area. Argument to impose higher cut was rightly rejected by the learned Single Judge, after taking note of evidence on record.

Argument of the counsel for the Union of India that since the land was situated at a distance of 1 to 1-1/2 kms of municipal limits, as such, higher cut be imposed, is not justified, in view of evidence on record. It had come in evidence that the land under acquisition was situated next to the municipal limits and was situated very near to golf course. In view of this, no case is made out for further cut as prayed for."

29. In the instant case, admittedly, the land has been acquired for the construction of housing colony, therefore, the learned Reference court had rightly deducted 30% of the amount as development charges from the aforementioned

value of the acquired land. Thus, after deduction, the market value of the acquired land comes to Rs.11,90,000/- per bigha

30. In ***H.P. Housing Board vs. Ram Lal & others alongwith connected matter, 2003 (3) Shimla Law Cases 64***, it has been held that when the land is being developed for a housing colony, classification completely loses its significance. The relevant portion of the aforesaid judgment is extracted hereunder for ready reference:

“27. When the land is being developed for a housing colony, as in the present case, classification completely loses significance. Reason being that it has to be developed as a single unit i.e. for housing colony. Similarly allowing higher price for land near the road and for the one which is at a distance from the road also does not provide any reasonable, muchless rational basis to allow less price for the area. Reason being that a person may be interested to reside near the road side in a developed colony for so many reasons. Whereas another, may like to live in the vicinity which is away from the road to avoid hustle and bustle of being near the roadside and for many other reasons. In these circumstances it cannot be said that location of the land and its distance from the road is good criteria and/or for that matter classification for the assessment of compensation. In my view entire land under acquisition should have been assessed at Rs.200 per sq. meter irrespective of its classification and/or distance from the road.”

31. In the instant case also, admittedly, the land has been acquired for the purpose of residential colony, therefore, in the present case also, the classification loses its significance. Hence, the petitioners are entitled for compensation at the flat rate of Rs11,90,000/- per bigha irrespective of its classification.

32. In view of what has been discussed hereinabove, the appeal filed by the petitioners/claimants, RFA No. 234 of 2014, is allowed and the petitioners are held entitled to compensation at the rate of Rs.11,90,000/- per bigha alongwith all statutory benefits as available under the Act. The appeal filed by appellants-HIMUDA, RFA No. 235 of 2014, is dismissed.

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

(Sushil Kukreja)
Judge

31st July, 2026
(virender)