IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 136 of 2014 with Cross Objection No. 98 of 2018

Reserved on:17.09.2026
Decided on: 07.10.2026
Uploaded on website on: 07.10.2026

RFA No. 136 of 2014:

State of H.P. ....Appellant.

Versus

Sangeet Kaur …Respondent.

Cross Objection No. 98 of 2018:

State of H.P. ....Appellant.

Versus

Sangeet Kaur …Respondent.

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

For the appellant/State: Mr. Ankush Thakur, Deputy Advocate General.

For the respondent: Ms. Vandana Kuthiala and Mr. Diwan Singh Negi, Advocates.

Sushil Kukreja, Judge.

The appellant/State of H.P., who was respondent before the learned Reference Court, preferred the instant appeal under Section 54 of the Land Acquisition Act (for short "the Act") against award dated 20.06.2013, passed by learned Reference Court,whereby the respondent-Smt. Sangeet Kaur, who was petitioner (claimant) before the learned Reference

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

Court (hereinafter referred to as “petitioner/claimant”), was held entitled for compensation qua the acquired land @ Rs.1101/- per square meters, irrespective of the nature, kind and classification of the land alongwith statutory benefits.

2. The facts giving rise to the instant appealarethat the petitioner preferred a reference petition under Section 18 of the Act before the learned Reference Court, wherein she averred that land measuring 630.50 square meters, bearing khasra No. 2780 and 2781/1, comprising khewat No. 309 min, khatauni No. 1000 min and 1001, situated in Up Mohal Galua Mohal Galua, Tehsil and District Una, was acquired by the appellant/State for the purpose of construction of water storage tank and same was constructed 22 years ago without initiating any acquisition proceedings. The petitioner further averred that she had no knowledge qua issuance of notification under Sections 4 and 6 of the Act, as she used to reside at Chennai and her general power of attorney was looking after her estate, who had met with an accident during the year 2001 and remained under treatment at Chennai, Mumbai and Amritsar. The petitioner also averred in her petition that as the land was already in possession of State Government (appellant herein), there was no occasion to keep track of publication of the

notification in this regard. Moreover, the Land Acquisition Collector did not send any notice to her under Section 9 or under Section 12(2) of the Act and no information was given to her qua the acquisition of the land in question. The petitioner was neither present on the date of announcement of the award nor she was called to join such proceedings by the Land Acquisition Collector. As per the petitioner, her attorney came to know about the acquisition proceedings on 19.09.2006 when information qua the payment of compensation proposed to be made on 22.09.2006 at HPPWD Rest House, Una, was received. The Land Acquisition Officer offered an amount of Rs.3,99,883/-, as compensation on 22.09.2006, vide cheque No. 0130153, dated 22.09.2006, which was received by the petitioner under protest.

2(a). The Land Acquisition Officer, HPPWD, Kangra, vide Award No. 4, dated 18.02.2005, approved the rates in the following manner:

Name of village	**Classification of land**	**Market value per Sq. meter.**
Galua	**Kharetar**	**Rs.401-00**
	Gair mumkin	**Rs.401-00**

2(b). On the basis of the above rates, total compensation of the acquired land in village Galua was assessed as under:

Name of village	Classification of land	Area	Market value per Sq. meter.
Galua	Kharetar	605-861	Rs.2,52,630
	Gair mumkin	24-64	
	Total	830-50	Rs.2,52,830

On the basis of the value assessed by the District Collector, award in the sum of Rs.2,52,630 was calculated by the Land Acquisition Officer qua the acquired land alongwithother statutory benefits.

3. The petitioner/claimant, feeling aggrieved, filed reference petitions under Section 18 of the Act before the learned Reference Court for enhancement of the compensation amount. The learned Reference Court, after considering all the material, passed the impugned award, dated 20.06.2013, whereby the petitioner/claimant was held entitled for enhanced compensation at the rate of Rs.1101/- per square meter, i.e., approximately Rs.20,919/- per marla alongwith other statutory benefits for the acquired land. Hence, the instant appeal preferred by the appellant/State against the impugned award with a prayer to set-aside the impugned award.

4. On the other hand, petitioner/claimant Smt. Sangeet Kaur preferred Cross Objection No. 98 of 2018 under Order 41 Rule 22 read with Section 151 of CPC against the

impugned award, passed by the learned Reference Court, with a prayer to modify the impugned award by awarding enhanced compensation to the petitioner/claimant.

5. The learned Deputy Advocate General for the appellants/State contended that the impugned award is wrong, illegal and against the material placed and proved on record and the learned Reference Court gravely erred in assessing the market value @ Rs.1101/- per square meter. He also contended that the learned Reference Court had grossly misread and mis-appreciated the oral as well as documentary evidence on record and cogent evidence was ignored as such he submitted that the impugned award be set-side by allowing the instant appeal.

6. Conversely, learned counsel for the respondent (petitioner/claimant/cross-objector) contended that the impugned award, passed by the learned Reference Court, is both against facts and law, as the learned Reference Court had failed to grant adequate compensation, as the acquired land was situated in the heart of Una City, having great commercial value. She further contended that the petitioner/claimant was also entitled for just and fair compensation/damages qua the period the appellant remained in possession of the acquired

land prior to issuance of notification under Section 4 of the Act and submitted that her cross-objections be allowed and enhanced compensation qua the acquired land be granted.

7. I have heard the learnedDeputy Advocate General for the appellant/State, learned counsel for the respondent/cross-objector 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 & LRs & others v. 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 (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……..***
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> ***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 s 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)."***

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.***
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> ***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 her case, the petitioner/claimant, examined five witnesses, i.e., PW-1 Shri Onkar Nath, PW-2 Shri Ramesh Chand, Junior Engineer, PW-3 Shri Ramesh Kumar, Draftsman, PW-4 Shri Ravi Kumar, the then Registration Clerk and PW-5 Shri Baba Sarajot Singh. PW-1 Shri Onkar Nath, the then Patwari, Una Circle, proved on record Aks Tatima, Ex. PW-1/A, for the year 1983-85, qua Mohal Galua, which was prepared by him with Shajra Latha. He had also prepared one year average value, Ex. PW-1/B, w.e.f. 01.08.2009 to 31.07.2010, qua Mohal Galua. Shri Ramesh Chan, the then Junior Draftsman, Town Planning, Sub Division, Una, appeared in the witness-box as PW-2 and deposed that his Department had approved Developmental Plan of Una, which is Ex. PW-2/A. As per this witness, the area shown in red color in Ex. PW-2/A is residential area. PW-3, Shri Ramesh Kumar, Draftsman (Civil), had prepared sketch plan, Ex. PW-3/A, as per scale on the basis of Aks supplied by the Patwari. The marginal notes were prepared and signed by

him. PW-4 Shri Ravi Kumar, the then Registration Clerk, Sub-Registrar, Una, had proved copies of sale deeds, dated 20.04.2001, 20.12.2001, 20.02.2002, 01.01.2005, 15.02.2005, 12.04.2006, 03.08.2006 and 25.08.2006, Exts. PW-4/A to Exts. PW-4/H, respectively. PW-5 Shri Baba Sarabjot Singh Bedi, General Power of Attorney holder of the petitioner/claimant had tendered in evidence his affidavit, Ex. PW-5/A. He had reiterated the contents of the petition. As per this witness the adjoining land comprising in khasra Nos. 2782, 2783, 2784 to the acquired land was the premises of Guardwara and was being used as temporary market during religious ceremonies and the same was of great potential value.

14. The petitioners/claimants have also placed on record copy of sale deed No. 720, dated 20.04.2001, Ex.PW-4/A, whereby 194.25 sq. meters of land was sold for Rs.2,03,500/-, i.e., Rs.1047.61 per sq. meter, copy of sale deed No. 2301, dated 20.12.2001, Ex.PW-4/B, whereby land measuring 189.92 sq. meters of land was sold for Rs.1,35,500/-, i.e., Rs.711.95 per sq. meter, copy of sale deed No. 348, dated 20.02.2002, Ex. PW-4/C, whereby land measuring 18776 sq. meters was sold for Rs.1,90,000/-, i.e., Rs.1011.93 per square meter, copy of sale deed No. 1, dated 01.01.2005, Ex.

PW-4/D, whereby land measuring 90.00 square meter was sold for Rs.1,50,000/-, i.e., Rs.1666.66 per sq. meter, copy of sale deed No. 295, dated 15.02.2005, Ex.PW-4/E, whereby land measuring 22.98 sq. meters was sold for Rs.5,00,000/-, i.e., Rs.21,758.05 per sq. meter, copy of sale deed No. 646, dated 12.04.2006, Ex.PW-4/F, whereby land measuring 19.20 sq. meters was sold for Rs.85,000/-, i.e., Rs.4427.08 per sq. meter, copy of sale deed dated 03.08.2006, whereby land measuring 96.60 sq. meters of land was sold for Rs.1,25,000/-, i.e., Rs.1293.99 sq. meters, copy of sale deed, dated 25.08.2006, whereby land measuring 24.62 sq. meters of land was sold for Rs.1,30,000/-, i.e., Rs.5280.26 sq. meters.

15. On the other hand the appellant/State, in order to prove its case, examined two witnesses, i.e., RW-1 Shri Jai Lal and RW-2 Shri Kishan Singh. RW-1, who remained Junior Engineer from 1973 to 1987, during the year 1982-83 got the construction work of the water tank done. As per this witness, earlier the department intended to construct the tank by leveling the land, but PW-5, Baba Sarabjot Singh, after consultation with Superintendent Engineer, gave land on hillock free of cost. He further deposed that till 1987 no objection was raised by Baba Sarabjot Singh qua the construction of the tank.

He deposed that the land was barren and the tank was constructed on the request of Baba Sarabjot Singh. RW-2 Shri Kishan Singh, the then Patwari, Land Acquisition Officer, Office Kangra, tendered in evidence copy of notification under Section 4 of the Act, Ex.R-2, copy of notification under Section 6 of the Act, Ex.R-3, detail of land, Ex.R-4, copies of notices, Ex.R-5 & R-6, copy of five year average cost, Ex.R-7, copy of award, Ex.R-8 and Fard Talika, Ex. P-9.

16. The respondents, in order to fortify their stand, also tendered in evidence copies of sale deeds, Ex. RA to Ex. RE.

17. While determining the market value of the land under acquisition, the learned Reference court has taken the average market value of the sale deeds, relied upon by the petitioners/claimants, which comes to Rs.2,202/- per square meter and by applying deduction @ 50% of the average amount, the market value of the land under acquisition was determined @ Rs.1201/- per square meter.

18. It was contended by the learned Deputy Advocate General that the learned Reference court had committed an error in taking into consideration the average value of the different sale transactions whereas he should have taken highest of the sale exemplars into consideration for determining

the market value of land under acquisition. It is a settled law that where there are various sale deeds, then highest of the sale exemplar has to be taken into considerationto determine the market value of the acquired landand 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. … … … … …"***

19. 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 highestof the exemplars, which is a bona fide transaction, will beconsidered. Where however there are several sales of similarlands whose prices range in a narrow bandwidth, the averagethereof can be taken, as representing the market price. Butwhere the values disclosed in respect of two sales aremarkedly different, it can only lead to an inference that theyare with reference to dissimilar lands or that the lower valuesale is on account of under-valuation or other pricedepressing reasons. Consequently averaging cannot be resortedto. We may refer to two decisions of this Court in this behalf.***

21. ***In M. Vijayalakshmamma 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 nearabout the time of the acquisition. It is not disputedthat 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 11grounds 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 ExhibitR-19 was sold. It is true that this land was sold atRs.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 fairthat 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 normalmarket conditions are the real basis to determine the market value."***
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> ***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 dated30.8.1989 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."***

20. In the case on hand, the perusal of the record reveals thatsale deeds, Ex. PW-4/D to Ex. PW-4/H, relied upon by the petitioner and sale deed, Ex. RD, relied upon by the State are post notification sale deeds, hence they cannot be relied upon to determine the market value of the land under acquisition. In sale deeds, Ex. RA to RC and RE the sale considerations were less than the amount offered by the Land Acquisition Collector.Section 25 of the Act provides that the compensation awarded by the Reference Court cannot be lower than the amount awarded by the Land Acquisition Collector.Hence, these sale deeds, Ex. RA to RC and RE, produced by the State 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. RA to RC and RE does not show the correct market value of the acquired land.Out of sale deeds, Ex. PW-4/A to Ex. PW-4/C, relied upon by the petitioner/claimant, sale deed, Ex. PW-4/A, dated 20.04.2001, is the highest of the exemplars, wherein the land measuring 194.25 square meters was sold for Rs.2,03,500/-, i.e., Rs.1047.61/- per square meter.The appellants/State have failed to lead any evidence to the contrary that the said transaction, vide sale deed, Ex. PW-4/A, was not a bona fide transaction.

21. The perusal of the record further reveals that while determining the market value of the acquired land, the learned Reference Court had applied deduction of 50% on the average value of the sale deeds, Ex. PW-4/A to Ex. PW-4/H, except PW-4/E. However, it is a settled law that no deduction will be permissible where the land is acquired for the public purpose i.e. for the purpose of construction of the road and for laying railway line etc. In a case titled as***Land Acquisition Collector vs. Bangalu @ Daulat Ram, 2025 (1) Shimla Law Cases 146***, this Court has held as under:

> ***"11. The contention of the learned Deputy Advocate General that standard deduction was required to be made from the flat rate of Rs.8,50,000/- per bigha, is devoid of any merits. This Court in number of judgments has consistently taken a view that the deduction will not be permissible where the purpose of***

acquisition of land is for the construction of road, rail track or any other purpose relatable to the public at large, without any component of profit or loss.

12. Reference can be made to 2014 (3) SLC 1356 titled as G.M. Northern Railway vs. Gulzar Singh & others as under:

> ***"10. Even previously in judgments reported, in 1997 (2) SLC 229 and 1998(2) All India Land Acquisition Act LACC (1) SC, it has been mandated that when the purpose of acquisition is common, the award of compensation at a uniform rate for different classification/categories of land, is, tenable. Hence, it can be forthrightly concluded, that, the award of a uniform rate of compensation by the learned Additional District Judge Una for different lands bearing different classifications/categories, is, not legally infirm, especially when on acquisition they acquire a uniform potentiality.***
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> ***11. The learned counsel appearing for the appellant has concerted, to also espouse before this Court, that even though, reliance upon Ex. PW1/C by the learned Court below, is not misplaced, in as much, as it fulfilled the relevant enshrined legal parameter for its invocation/applicability, in as much, as (i) it being proximate to the land subjected to acquisition, as also (ii) its execution being contemporaneous to the issuance of the notification under Section 4 of the Land Acquisition Act. Nonetheless, he has canvassed that (i) given the largeness or expanse and immensity/immenseness of size of the land subjected to acquisition vis-à-vis the area of the land sold/ comprised in Ex.PW 1/C, the market value of the land comprised in Ex.PW1/C could not have been, as a whole applied to the entire land subjected to the acquisition, unless, deductions for developmental costs as warranted and mandated by the decisions relied upon by him had been made/accorded. Since, the learned Additional District Judge, Una omitted to give/make deductions from the total compensation arrived at/worked out on the basis of the value of the land sold/comprised in Ex.PW1/C, whereas, he was enjoined to do so, he has committed a grave legal error necessitating interference by this Court.***
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> ***12. While proceeding to gauge the sinew of the above contention canvassed before this Court, it is necessary to bear in mind that the judgments cited in support of the above view espoused by the learned counsel for the appellant, are distinguishable, vis-à-vis, the facts at hand, hence, in the humble view of this Court, not reliable as (a) all the judgments relied upon by the learned counsel for the appellant, concert to marshal the view, of, deductions from the lump sum compensation assessed qua a large tract of land on the score of market value of a small/minimal piece of land being made. In other words, the emphasis in the aforesaid citations, is that, for the market value of small a tract of land to be comprising an admissible parameter, for, on its strength working out the***

compensation for a large tract of land, it is, imperative that deductions towards development costs is made. However, distinguishably in the citations aforesaid, the acquisition was made for the development of sites for allotment for housing purpose or for construction of a housing colony or the purpose of acquisition had an inherent profiteering motive. Therefore, given the purpose for which the land was acquired, in, the cases relied upon by the learned counsel for the appellant, deductions were enjoined to be imperative or necessary, as, the entity for whom the land was brought under acquisition, would be entailed/obliged, to, make the land fit for the purpose for which it was acquired, in as much, as, such an entity concomitantly being driven to incur exorbitant expenses, towards its development for rendering it fit for use. As such, given the magnified increase in the scale of economies or given the ultimate manifold increase, in, the scale of economies or such incurring of exorbitant expenses on development, hence, acquiring the capacity to proportionately reduce their profit, as such, rendering the project for which the land was acquired financially viable, or, to obviate the losses accruing from the steep rates of compensation as may be awarded that deductions were permitted. In other words, deduction from compensation mandated to not render the venture and the purpose for which the land was acquired, in the aforesaid citations relied upon by the learned counsel for the appellant, to be financially un-whole some, as well as, unviable. More so, when the land is acquired for State holdings, building/housing agency(ies) or the agencies carrying out and engaged in profiteering work. However, in contra distinction, to the facts of the judgments, as relied upon by the learned counsel for the appellant, in the instant case, the land has been subjected to acquisition, for the purpose of construction of a railway track. In the appellant engaging itself in the construction of a railway track, it has assumed the role of doing so, as, a welfare measure and not as a profiteering measure. The railway track would continue to be owned by the appellant, in distinction to the facts of the judgments relied upon by the learned counsel for the appellant, where the agency for whom the land was subjected to acquisition, would on developing the land, sell it further or gain profit. (b) The appellant has omitted to adduce cogent evidence on record displaying the fact that each of the land holder, whose land was subjected to acquisition was holding a vast expanse of land. Omission to adduce into evidence such proof demonstrative of each of the land holders, whose land was subjected to acquisition, owing a wide expanse or a large sized holding, vis-à-vis, the sale transaction comprised in Ex. PW1/C, a firm conclusion can be formed, that, the size of the holding or the size of the land of the each of the land holders, whose land was subjected to acquisition was more or less equal to or not disproportionately larger in size to the area of the land comprised in Ex.PW1/C. Hence, there was no jurisdictional error, on the part of the learned Additional District Judge, Una, in not affording deduction, given the smallness in size of the land comprised, in,

Ex.PW1/C, vis-à-vis, the lands of each of the individual land owners, whose land was subjected to acquisition. Besides, it has also not been cogently proved by the appellant that any part of the land owned by each of the land owners and subjected to acquisition did not bear potentiality nor would have commanded a market value, lesser than the value earned by the expanse of land comprised in Ex.PW1/C. It appears, that, given the proximity of the acquired land, as deposed by PW-4 Gulzar Singh and PW3 Gurbachan Singh, to educational institution, temple and abadi of the villagers it enjoyed or commanded immense market value. Therefore, when each parcel of the land subjected to acquisition bore a market value, equivalent to the land subjected to acquisition, hence, there was, no, legal error committed by the learned Additional District Judge in relying upon for the market value depicted, in, Ex.PW1/C and applying it to the entire tracts of the land subjected to acquisition even, when it was smaller in size vis-à-vis the land subjected to the acquisition."

13. Similar, reiteration can be found in Jaswant Singh & others vs. State of H.P.& others, 2018 (3) Shimla Law Cases 1493. The relevant para of the aforesaid judgment is as under:

"4. Consequently, bearing in mind, the afore expostulation of law, occurring in paragraph No. 10 to 14 of the verdict of this Court, rendered in Gulzar Singh's case (supra), reiteratedly this Court further concludes (a) qua when the purpose, of, acquisition, is, for construction a road, and, when hence the meteing of deductions, vis-a-viz, compensation assessed by the learned Reference Court, on anvil, of, the apposite sale exemplar, is rather validly meteable, (b) only for covering the apt exorbitant costs, accruable for developing the acquired lands, for theirs ultimately rearing hence handsome profits, vis-à-vis, the authority, wherefrom whom, the acquisition is made, (c) thereupon the principle of meteing of deductions, when rather is squarely attracted and applicable, vis-à-vis, construction(s), of, road, (d) thereupon hence, the meteing of deduction by the learned reference court, vis-à-vis, compensation amount, as assessed in respect, of, the lands of the landowners/appellants herein, on anvil, of, the sale exemplar borne in Ex.PB, rather, is, rendered legally frail."

14. In Nelson Fernandes & others vs. Special Land Acquisition Officer, South Goa & others, (2007) 9 Supreme Court Cases 447, while dealing with the case where the land was acquired for laying a railway line, the Hon'ble Apex Court held that no deduction by way of development charges was permissible, as there was no question of any development thereof. The relevant portion of the judgment (supra) is as under:

"30. … … … … that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."

22. In the instant case also the land was acquired as a single unit for the public purpose, i.e., for the construction of water tank,therefore, no deduction will be permissible keeping in view the purpose of acquisition involved in the instant appeal. Hence the appellant is entitled for compensation at the market value of the acquired land @ Rs.1047.61/- per square meter without applying any deduction.

23. The learned counsel for the cross-objectornext contended that the possession of the land was taken by the appellants-State in the year 1982-83 but no additional interest, as damages for the period from the date of dispossession till the date of issuance of notification under Section 4 of the Act has been granted.

24. Now, the question which arises for consideration is as to whether the petitioner is entitled to additional interest, as damages for the period with effect from the taking-over of the possession of the land till the issuance of the notification under Section 4 of the Act. In the reference petition filed under Section 18 of the Act as well as in affidavit, Ex. PW-5/A, the petitioner averred that the water storage tank was constructed by the government about 22 years back by taking over the

possession of the land without initiating the acquisition proceeding to acquire the land. RW-1, the then Junior Engineer, stated in his examination-in-chief that the tank was constructed on the land in question in the year 1982-83.In his cross-examination, he admitted that at that time only one tank was constructedand the second tank was constructed after his retirement and now two tanks are there on the land in question Admittedly, the notification under Section 4 of the Act was issued on 03.03.2003.

25. This issue of granting use and occupation charges for the period w.e.f. taking-over of the possession of the land till the issuance the notification under Section 4 of the Act is no longer res integra. In ***Madishetti Bala Ramul (dead) by LRs vs. Land Acquisition Officer (2007) 9 SCC 650*** Hon'ble Supreme Court allowed the interest @ 15% per annum on the market value assessed by the Reference Court on the ground that the land was utilized for public purpose without acquisition and payment of compensation for considerable long period. The relevant extract from the aforesaid judgment is quoted for reference as under:

> ***"9. The short question which, therefore, arises for consideration is as to whether Section 25 of the Act will have any application in the fact of the present case. Two notifications were issued separately. The second notification was issued as the first notification did not***

> ***survive. Valuation of the market rate for the acquired land, thus, was required to be determined on the basis of the notification dated 23.12.1991. The earlier notification lost its force. If the notification issued on 16.03.1979 is taken into consideration for all purposes, the subsequent award awarding market value of the land @ Rs. 65/- per square yard cannot be sustained. As the said market value has been determined having regard to the notification issued on 23.12.1991, possession taken over by Respondent in respect of 3 acres 5 guntas of land, pursuant to the said notification dated 16.03.1979 was in the eye of law, therefore, illegal. The High Court evidently directed grant of additional market value @ 12% per annum on the enhanced market value from the date of the publication of the notification dated 23.12.1991 as also interest thereupon from the said date instead and place of 18.05.1979. We generally agree therewith.***
>
> ***… … … … … … … …***
>
> ***15. The Land Acquisition Officer took possession of the land on the basis of a notification which did not survive. Respondent could not have continued to hold possession of land despite abatement of the proceeding under the 1984 Act. It was directed to be decided by the High Court upon a reference made by the Collector in terms of Section 30 of the Act. The State, therefore, itself realized that its stand in regard to the ownership of 3 acres and 5 guntas of land was not correct. It, therefore, had to issue another notification having regard to the provisions contained in the Land Acquisition (Amendment) Act, 1984. Whereas the High Court may be correct in interpreting the question of law in view of the decision of this Court, but the same would not mean that Appellants would not get anything for being remaining out of possession from 1979 to 1991.***
>
> ***… … … … … … … …***
>
> ***20. In the peculiar facts and circumstances of the case, although the proper course for us would have to remand the matter back to the Collector to determine the amount of compensation to which the Appellants would be entitled for being remained out of possession since 1979, we are of the opinion that the interest of justice would be met if this appeal is disposed of with a direction that additional interest @ 15% per annum on the amount awarded in terms of award dated 02.01.1999 for the period 16.03.1979 till 22.12.1991, should be granted, which, in our opinion, would meet the ends of justice."***

26. In ***Tahera Khotoon& others vs. Revenue Divisional Officer/Land Acquisition Officer & others, (2014) 13 SCC 613,*** the Hon'ble Supreme Court has held as under:

> ***"14. In the instant case, it is not in dispute nor can it be disputed by either side that the property in dispute was in possession of the Warangal Municipal Committee. In fact the said Municipal Committee had developed the aforesaid land into a part. Since there was a dispute among the owners of the land with the Municipal Committee, the Municipal Committee had sought the assistance of the State Government to acquire the property and to hand over the same to the Municipal Committee for its use and development.***
>
> ***15. It is also not in dispute that the Municipal Committee was in possession of the aforesaid property right from 1-1-1938 till the Notification was issued by the State Government on 10-1-1996. Keeping in view the observations made by this Court in Madeshetti Bala Ramul (2007 (9) SCC 650), we direct the State Government to pay rents/damages at the rate of 15% on the compensation awarded from the date the landowners were dispossessed, namely, from 1-1-1938 till the date of issuance of the preliminary Notification i.e. 10-1-1996. The calculations shall be made by the State Government as expeditiously as possible and disburse the aforesaid amount to the appellants as early as possible, at any rate, within threemonths from the date of receipt of copy of this order."***

27. In ***Balwan Singh & others vs. Land Acquisition Collector & another, (2016) 13 SCC 412,*** the same view was reiterated by the Hon'ble Supreme Court and a direction was issued to the acquiring authority to award additional interest by way of damages from the date when the respondents-claimants were dispossessed till the date of notification under Section 4 of the Act. Relevant paras of Balwan Singh's judgment (supra) for the sake of ready reference are extracted hereunder:

> ***"1. The short issue arising for consideration in this appeal is whether the appellants are entitled to interest for the period from the date of dispossession to the date of Notification under Section 4(1) of the Land Acquisition Act, 1894 (For short 'the Act'). That issue is no more res integra. In R.L. Jain Vs. DDA (2004) 4 SCC 79 at para 18, this Court has taken the view that the land owner is not entitled to interest under the Act. However, it has been clarified that the land owner will be entitled to get rent or damages for use and occupation for the period the Government retained possession of the property.***

> ***2. Noticing the above position, this Court in Madishetti Bala Ramul Vs. Land Acquisition Officer (2007) 9 SCC 650, took the view that it may not be proper to remand the matter to the Collector to determine the amount of compensation to which the appellants therein would be entitled for the period during which they remained out of possession and hence, in the interest of justice, this Court directed that additional interest at the rate of 15% per annum on the amount awarded by the Land Acquisition Collector, shall be paid for the period between the date of dispossession and the date of Notification under Section 4(1) of the Act.***
>
> ***3. The said view was followed by this Court in Tahera Khatoon Vs. Land Acquisition Officer (2014) 13 SCC 613.***
>
> ***4. Following the above view taken by this Court, these appeals are disposed of directing the respondents to award additional interest by way of damages, at the rate of 15% per annum for the period between 1.7.1984, the date when the appellants were dispossessed till 2.9.1993, the date of Notification under Section 4(1) of the Act. Needless to say, that this compensation will be on the basis of land value fixed by the Reference Court. The amount as above, shall be calculated and deposited before the Reference Court within a period of three months from today."***

28. In the case on hand, the perusal of jamabandi, Ex P5 reveals that the tank was constructed only over khasra No 2780, measuring 24-64 square meters of land. Therefore, it has become clear that possession of only 24-64 square meters of land comprised in khasra No. 2780 was taken by the department by constructing one tank, whereas, the notification qua acquisition under Section 4 of the Act was issued on 03.03.2003. Hence, in view of the aforesaid authoritative pronouncements of the law laid down by the Hon'ble Supreme Court on the subject, this Court is of the view that since the possession of only24-64 square meters of land was taken way-

back in year 1982-83, whereas, the notification qua the acquisition under Section 4 of the Act was issued on 03.03.2003,as such, the petitioner is entitled to additional interest, as damages, @ 15% per annum for the period from the year 1982-83 (the date when the petitioner was actually dispossessed from the land measuring 24-64 square meters) till 03.03.2003 (the date of issuance of notification of acquisition of the land in question, under Section 4 of the Act)on the market value of land to the extent of24-64 square meters.

29. As a result of my aforesaid discussion, the impugned award is modified and the market value of the acquired land is determined @ Rs.1047.61 square meter. Consequently, the petitioner/claimant is held entitled to compensation at the rate of Rs.1047.61 per square meter alongwith all statutory benefits. The petitioner is also held entitled to additional interest, as damages @ 15% per annum from the year 1982-83 (when the petitioner was actually dispossessed from her land, measuring 24-64 square meters) till 03.03.2003 (the date of issuance of notification of acquisition of the land in question, under Section 4 of the Act)on the market value of land to the extent of 24-64 square meters.

30. No other point was urged.

31. In view of what has been discussed hereinabove, the instant appeal as well as the cross-objections are disposed of.

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

(Sushil Kukreja)
Judge

7th October, 2026
(virender)