

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

RFA No. 158 of 2015

Reserved on: 24.08.2026

Date of decision: 28.09.2026

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State of H.P. & others	Versus	Appellants.
Pritam Singh & another		Respondents.

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

¹ *Whether approved for reporting?*

For the appellants:	Mr. Balvinder Singh Ballu, Deputy Advocate General.
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None for the respondents.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellants/State, under Section 54 of the Land Acquisition Act, 1894 (for short “the Act”) against award dated 24.06.2014, passed by learned Additional District Judge-II, Kangra at Dharamshala, District Kangra, H.P. (hereinafter referred to as “the learned Reference Court”), in Reference Case RBT No. 64-J/13/06, whereby the reference petition filed by the petitioners/claimants, who are respondents herein, was allowed.

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

2. The facts giving rise to the instant appeal are that the Government of Himachal Pradesh issued Notification, dated 11.06.1999, under Section 4 of the Act, which was published in H.P. Rajpatra on 18.07.1999 and in news papers, i.e., Divya Himachal and Indian Express on 13.07.1999, whereby the land of the petitioners, was intended to be acquired by the State for the purpose of construction of Shah Nehar, Project. Subsequently, Notification under Sections 6 and 7 of the Act was issued on 29.10.1999, which was published in H.P. Rajpatra on 27.11.1999 and in news papers Ajeet Samachar and The Tribune on 28.11.1999. Ultimately, the Land Acquisition Collector passed Award No. 19, dated 29.01.2002, whereby following rates were fixed:

Sr. No.	Nature of the land	Rate fixed per hectare
1.	Barani Abal	Rs.3,50,000/-
2.	Barani Doyam	Rs.3,00,000/-
3.	Barani Soyam	Rs.2,80,000/-
4.	Baagicha Barani Faldar	Rs.3,90,000/-
5.	Banjar Kadim	Rs.2,70,000/-
6.	Khadetar	Rs.2,50,000/-
7.	Khadkana	Rs.2,30,000/-
8.	Gair Mumkin	Rs.2,30,000/-
9.	Sarak Kinare Ki Bhumi	Rs.5,00,000/-

3. The petitioners/claimants, being dissatisfied, preferred reference petition before the learned Reference Court seeking enhancement of the compensation amount.

4. 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.7,50,000/- per hectare alongwith all the statutory benefits.

5. Feeling aggrieved, the appellants/State, preferred the instant appeal against the impugned award with a prayer to set-aside the same.

6. The learned Deputy Advocate General for the appellants/State vehemently contended that while passing the impugned award the learned Reference Court had erred in enhancing the amount of compensation by determining the market value of the land after placing reliance upon sale deed, Ex. PW-1/D, which pertains to *Mohal Tatwali, Mauza Ray*, whereas the land under acquisition was situated in Mauja Dholpur.

7. I have heard the learned Deputy Advocate General for the appellants, and carefully examined the entire records.

8. As per the settled principle of law, compensation for the land acquired has to be determined at market value. Market value is the price that a willing purchaser would pay

to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

9. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and LRs & others vs. State of Gujarat (1989) 4 SCC 250***, the Hon'ble Supreme Court held that the market value of a property for the purpose of Section 23 of the Act is the price at which the property changes hands from a willing seller to a willing purchaser, but not too anxious a buyer, dealing at arms length. The relevant portion of the aforesaid judgment reads as under:

“4. The market value of a piece of property for purpose of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but

not too anxious a buyer, dealing at arms length. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value."

10. In ***Atma Singh & others vs. State of Haryana & another (2008) 2 SCC 568***, the Hon'ble Supreme Court held that the market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing conditions with all its existing advantages and its potential possibilities when led out in most advantages manner, excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value, disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. The

relevant portion of the aforesaid judgment reads as under:

“4. The expression “market value” has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm’s length nor façade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value.

5. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration.”

11. For ascertaining market value of the acquired land, the Court can no doubt rely upon such sale transactions, which would offer a reasonable basis to fix the price, for which purpose, a sale transaction relating to a smaller parcel of land can be considered for the purpose of assessing the market value in respect of a large tract of land, after making appropriate deductions such as for development of land, for providing space for roads, sewers,

drains, expenses involved in formation of a layout, lump-sum payments, as well as for the waiting period required for selling the sites that would be formed and other expenses involved therein, but before doing so, the evidentiary value of such a sale deed is required to be carefully scrutinized. As held in the case of ***Land Acquisition Officer vs. Nookala Rajamallu reported as (2003) 12 SCC 334***, in order to adopt the price reflected in the sale deed, the following conditions are required to be met:-

"9. It can be broadly stated that the element of speculation is reduced to a minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

(i) when sale is within a reasonable time of the date of notification under Section 4(1);

(ii) it should be a bona fide transaction;

(iii) it should be of the land acquired or of the land adjacent to the land acquired; and

(iv) it should possess similar advantages.

10. It is only when these factors are present, it can merit a consideration as a comparable case."

12. In ***Union of India vs. Pramod Gupta (dead) by LRs & others, 2005 (12) SCC 1***, the Hon'ble Supreme Court held that the best method, as is well-known, would be the amount which a willing purchaser would pay to the owner of the land. In the absence of any direct evidence, the Court, however, may take recourse to various other known methods. Evidence admissible therefor inter alia would be

the sale deeds, judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment/award in the absence of any other evidence like deed of sale, report of the expert and other relevant evidence would have only evidentiary value. The relevant portion of the aforesaid judgment reads as under:

“24 While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.

25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value.”

13. In the instant case, the petitioners had produced in evidence award, dated 10.01.2002, passed by Land Acquisition Collector, Shah Nehar Project qua the land acquired in Mohal Tatwali, Mauja Ray, copy whereof is Ex. PW-1/C, copy of award dated 30.06.2011, passed by learned Additional District Judge-II, Kangra at Dharamshala in Reference Petition No. 9-J/2011/2004, Ex. PW-1/B, whereby compensation @ 7.5 lacs per hectare was granted and also copy of sale deed, Ex. PW-1/D. In addition to the above

documentary evidence, petitioner-Pritam Singh himself stepped into the witness-box as PW-1 and he tendered in evidence his affidavit, Ex. PW-1/A. On the other hand, respondents have examined Shri Joginder Singh, the then Kanungo, as RW-1.

14. The learned Deputy Advocate General first contended that the learned Reference court has erroneously relied upon sale deed, Ex. PW-1/D, as the land pertaining to the aforesaid sale deed was situated at Mohal Tatwali, Mauza Ray, whereas the land under acquisition was situated in Mauza Dholpur. However, this contention of the learned Deputy Advocate General cannot be accepted, as in the instant case, the learned Reference Court had relied upon sale deed, Ex. PW-1/D, dated 26.05.1997, wherein the land measuring 0-01-01 HMs Mauza Dholpur was sold for Rs.10,00,000/- per hectare. The appellants have failed to lead any evidence to the contrary that the said transaction, vide sale deed, Ex. PW-1/D, was not a bone fide transaction. It has also come in the evidence on record that no sale transaction has taken place in Mohal Dholpur within one year prior to notification. It is not in dispute that Mohal Tatwali and Mauza Ray are adjacent to Mauza Dholpur, where the

acquired land was situated. The nature of the land in both the Mohals was also the same as such the learned Reference Court has rightly taken into consideration sale deed, Ex.PW-1/D, while determining the market value of the land. Since the aforesaid sale deed pertained to a small piece of land, therefore, the learned Reference Court had assessed the market value of the acquired land @ Rs.7,50,000/- per hectare, irrespective of its classification by giving discount of 25% over the sale consideration of Rs.10,00,000/- per hectare. Therefore, no fault can be found with the findings of the learned Reference Court so far as the assessment of the market value of the acquired land is concerned in the sum of Rs.7,50,000/- per hectare.

15. The learned Deputy Advocate General for the appellant/State lastly contended that the learned Reference Court has erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land. However, this contention of the learned Deputy Advocate General is also devoid of any force. It is a settled law that where the entire area is similarly situated, the value of the land under acquisition is to be assessed as a single unit irrespective of its classification and nature ignoring the

purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter. In **Smt. Gulabi & etc. vs. State of H.P., AIR 1998 HP 9**, it has been held as under:

"11. As a result of this discussion it is held that the market value of the land on the date of acquisition is Rs.4,000/- per biswa. In this context it is further held that the value of the land under acquisition is to be assessed irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter, Consequently, the appellants are held entitled to compensation at the rate of Rs. 4,000/- per biswa uniformly for all qualities of land and it is ordered accordingly. In taking this view, we are guided by the judgment of the Hon'ble Apex Court reported in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, and the relevant abstracts from the said judgment are as under (paras 7, 11, 13):--

"In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant Notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in a important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.

The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the

vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.

In the instant case it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. Therefore, no deduction could be made on ground, that large tract of land is required."

16. In ***Land Acquisition Officer vs. L Kamalamma*** (1998) 2 SCC 385, ***H.P. Housing Board vs. Ram Lal & others*** 2003(3) Sim.L.C. 64, ***Executive Engineer & anr. vs. Dilla Ram*** Latest HLJ 2008(2) (HP)(1007), it was held that when the entire land acquired belongs to one block, classification of the same into different categories is not reasonable. In case acquired land is to be used/developed as a single unit for a purpose having no relevancy with quality of land, the classification of land completely loses its

significance.

17. In the case on hand also as the land was acquired as the single unit for the public purpose, i.e., for construction of Shah Nehar, Project, therefore, the value of the land under acquisition is to be assessed as a single unit irrespective of its nature and classification ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Deputy Advocate General that the learned Reference Court has erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land deserves to be rejected.

18. No other point was urged.

19. Hence, in view of what has been discussed hereinabove, no interference is required in the impugned award dated 24.06.2014, passed by the learned Reference Court. Therefore, the instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed.

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

(Sushil Kukreja)
Judge

28th September, 2026
(virender)