

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

RFA No.419 of 2015

Reserved on: 22.12.2023

Decided on: 21st March, 2024

General Manager Northern Railway	Appellant
----------------------------------	----------------

Versus

Kaushalya Devi & Others	Respondents
-------------------------	------------------

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the appellants:	Mr. Shiv Pal Manhans, Senior Panel Counsel.
----------------------------	--

For the respondents:	Mr. Ajay Sharma, Senior Advocate with Ms. Kavita Kajal, Advocate for respondents No.1, 2(a) and 3.
-----------------------------	---

	Ms. Leena Guleria, Deputy Advocate General, for respondent No.4.
--	---

Virender Singh, Judge.

General Manager, Northern Railway, has preferred the present Regular First Appeal, under Section 54 of the Land Acquisition Act (hereinafter referred to as 'the Act'), against the award dated 12.02.2014, passed by the Court of learned Additional District Judge (II), Una, District Una, H.P., camp at Amb (hereinafter referred to as the 'trial Court'), in a batch of land reference petitions, lead case whereof **LAC**

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

Petition RBT No.183/2013/09, titled as **Kishan Singh & Others versus LAC & Another.**

2. Vide award dated 12.02.2014, the learned trial Court had decided the batch of reference petitions, by granting the following relief to the petitioners :-

“24. In view of my findings on the above issues, the petitions succeed and the same are allowed and the petitioners are awarded compensation at the rate of Rs. 90,000/- per kanal for all categories of acquired land, as per their respective shares recorded in the statement under section 19 of the Act. In addition to the said market value of the land, they shall be entitled to an amount calculated at the rate of 12% per annum on the enhanced market value for the period commencing from the date of publication of the notification under section 4 of the Act (1.12.2000) to the date of the Collector’s award dated 10.12.2001 under section 23(1-A) of the Act. They shall also be entitled to a sum equivalent to 30% of the aforesaid market value of the land, in consideration of the compulsory nature of acquisition under section 23(2) of the Act. In addition to that, the petitioners shall be entitled to interest on the sum awarded by this Court as compensation in excess of the sum awarded by the Collector as compensation, at the rate of 9% P.A for the first year, that is w.e.f. 10.12 2001 re the date of award and at the rate of 15% per annum for the remaining period w.e.f 10.12.2002 to the date of deposit of enhanced compensation in the Court. It is made clear that the amounts already awarded to the petitioners under section 23(1-A) and 23(2) of the Act shall be deducted from the enhanced compensation payable. These reference petitions stand disposed of in the aforesaid terms. Memo(s) of costs be prepared.”

3. For the sake of convenience, the parties to the present *lis* are hereinafter referred to, in the same manner, as were, referred to, by the learned trial Court.

4. The award, passed by the learned trial Court has been assailed before this Court, mainly, on the ground that the learned trial Court has failed to appreciated the fact that the Land Acquisition Collector has rightly awarded the compensation on the basis of classification of land in consonance with potentiality as recorded in revenue record.

5. Another ground, upon which, the award has been assailed is that the learned trial Court has not taken into consideration that the just compensation has been awarded to them. According to the appellants, the learned trial Court has not considered the fact that the petitioners have received the award without any protest.

6. On the basis of the above facts, a prayer has been made to allow the appeal, by setting aside the award passed by the learned trial Court.

7. Perusal of the record shows that vide award dated 12.2.2014, the learned trial Court has decided five land reference petitions. The subject-matter of the *lis* is the land situated in village Saloori, Tehsil Amb, District Una and the same was acquired for the purpose of construction of Nangal-Talwara Railway Line.

8. Notification under Section 4 of the Act, was issued on 01.12.2000 and the same was given wide publicity, as per mandate of the Act. Thereafter, the other codal formalities, as per Section 6 of the Act, were completed and ultimately award No.17 dated 10.12.2001, was passed.

9. Shri Ajay Sharma, learned Senior Advocate assisted by Ms. Kavita Kajal, Advocate, appearing for the petitioners has pointed out that a Co-ordinate Bench of this Court in ***RFA No.104 of 2014***, titled ***General Manager Northern Railway versus Raghubir Singh & Others***, along with connected matters, has decided a batch of appeals preferred, by the General Manager Northern Railway.

10. The subject-matter of the said appeals was the land situated in Village Bhera, Tehsil Amb, District Una and the said land was acquired for the purpose of construction of Nangal-Talwara Railway Line.

11. In the said appeals, Land Acquisition Collector has awarded a sum of Rs.1,30,000/- per kanal, irrespective of kind and quality of the land. The award, in those appeals, was passed on 12.9.2001 and the notification, under Section 4 of the Act, was issued on 1.12.2000. In the present case

also, notification under Section 4 of the Act, was issued on 1.12.2000.

12. The grounds, upon which, the award has been sought to be set aside is that the the learned trial Court has wrongly considered the award Ex. P-6. The award Ex.P-6 was passed on 31.3.2012, the subject matter of which was the land situated in Village Bhera. The reference petition can be decided on the basis of the award passed with regard to the land situated in adjoining village. Moreover, the land in both the villages was acquired for the same purpose and the notification under Section 4 of the Act was issued on the same day.

13. The learned trial Court has rightly passed the award, on the basis of Ex.P-6, which is copy of award dated 31.3.2012. Moreover, learned counsel for the appellant could not point out, as to how, the award, passed by the learned trial Court, is liable to be interfered with.

14. In the absence of any cross-objection, this Court is of the view that in view of the decision of a coordinate Bench in ***RFA No.104 of 2015***, titled as ***General Manager, Northern Railway versus Raghubir Singh & Others***, no ground for interference with the award passed by the learned

trial Court is made out. Consequently, the appeal is dismissed.

15. Pending applications, if any, also stand disposed of.

Record be sent down.

(Virender Singh)
Judge

March 21, 2024_(ps)