IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 158 of 2021

Reserved on: 29.10.2025
Date of decision: 03.11.2025

Executive Engineer IPH & another.

…..Appellants.

Versus

Sanyaru.

……Respondent.

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

For the appellants:	Mr. Balvinder Singh Ballu, Deputy Advocate General.
For the respondent:	Mr. G.R. Palsra, Advocate.

Sushil Kukreja, Judge.

The instant appeal has been preferred by the appellants, who were the respondents before the learned Court below (hereinafter referred to as "the appellants") against award dated 25.08.2018, passed by learned Additional District Judge (II), Mandi, District Mandi, H.P. (Sarkaghat Court) (hereinafter referred to as "the learned Reference Court"), in LAC Petition No. 3/2018, whereby the petition filed by the petitioner/claimant Sanayaru (respondent

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

herein), under Section 18 of the Land Acquisition Act (for short “the Act”) was allowed and he was held entitled for enhanced compensation at the flat rate of Rs.50,000/- per biswa irrespective of the classification of the land alongwith solatium, additional compensation, interest etc..

2. The brief facts of the case are that Government of Himachal Pradesh had issued Notification No. Irrigation-II-30/2008, dated 09.04.2009, under Section 4 of the Act, for acquisition of land situated in village Thurd/355, Tehsil Sarkaghat, District Mandi, H.P., for public purpose, i.e., construction of water tank. Thereafter, the Land Acquisition Collector HPPWD (CZ) Mandi, H.P. SDM sadar, Mandi, District Mandi, H.P., conducted detailed inquiry and vide Award No. 60, dated 30.12.2011, assessed compensation of the acquired land at the rate of Rs.5,50,050/- per hectare.

3. The petitioner/claimant, feeling aggrieved with the award of the Land Acquisition Collector preferred a petition under Section 18 of the Act before the learned Reference Court for enhancement of the compensation mainly on the ground that the Land Acquisition Collector did not consider the potentiality, productivity and future potential of the acquired land.

4. The learned Reference Court, allowed the petition of the claimant and held him entitled for enhanced compensation at the rate of Rs.50,000/- (rupees fifty thousand) per biswa irrespective of the classification of the land. In addition to the above, the petitioner was also held entitled to solatium, additional compensation, interest on the enhanced amount of compensation and interest under Section 34 of the Act., if not paid. Hence, the appellants preferred the instant appeal under Section 54 of the Act with a prayer to quash and set-aside/modify the award dated 25.08.2018, passed by the leaned Reference Court.

5. I have heard the learned Deputy Advocate General for the appellants, learned Counsel for the respondent and also carefully examined the records.

6. Learned Additional Deputy Advocate contended that the impugned award is wrong and illegal. He further contended that the learned Reference Court had wrongly appreciated the material on record and wrongly assessed the market value of the acquired land @ Rs.50,000/- per biswa irrespective of the classification of the land. Lastly, he submitted that the appeal be allowed and impugned award dated 25.08.2018 passed by the learned Reference Court be

set-aside.

7. Conversely, learned counsel for petitioner/claimant contended that the learned Reference Court had rightly held him entitled for enhanced compensation at the flat rate of Rs.50,000/- per biswa, irrespective of the classification of the land. He further contended that the acquired land had potentiality, productivity and future potential, as the acquired land had road connectivity and it was surrounded by primary school, patwar khana, Sub Health Centre and market of more than 15 to 20 shops, therefore, it was valuable land. Lastly, he prayed for dismissal of the instant appeal.

8. 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 ***Gulabi & etc. vs. State of H.P., AIR 1998 HP 9***, it has been held as under:

> ***"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 uniformally 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.***
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> ***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.***
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> ***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.***
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> ***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."***

9. 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 (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.

10. Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Additional 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, as in the instant case also the land has been

acquired as the single unit for the public purpose, i.e., for construction of Sayari Danwati road.

11. The learned Reference Court has assessed the market value of the land @ Rs.50,000/- per biswa on the basis of the sale deed, Ex. PW-1/C, placed on record by the petitioner. However, no cogent and satisfactory evidence has been led by the respondents to prove the market value of the land at the time of the acquisition. Therefore, the learned Reference Court had rightly assessed the market value of the land at the flat and uniform rate of Rs.50,000/- per biswa, irrespective of the classification and category of the acquired land on the basis of sale deed, Ex. PW-1/C.

12. Learned Deputy Advocate General for the appellant next contended that the learned Reference Court had also failed to consider the fact that the land in question was acquired for construction of water tank benefitting people of the area, therefore some reasonable deduction should have been made from the amount of compensation to be paid to the land owner(s). However, this contention of the learned Deputy Advocate General is devoid of any force as it is a settled law that the deduction will not be permissible where the purpose of acquisition of the 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. In ***The Land Acquisition Collector vs. Bangalu @ Daulat Ram, 2025 (1) Shim. LC 146,*** it has been held 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. The relevant portion of the aforesaid judgment is 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."***

13. In the instant case also, since the land has been acquired for a public purpose, i.e., for construction of water tank, relatable to the public at large, therefore, no deduction will be permissible.

14. Hence, in view of what has been discussed hereinabove and also considering the above stated settled principles of law, no interference is required in the impugned award, dated 25.08.2018, passed by learned Additional District Judge(II), Mandi, District Mandi, H.P. (Sarkaghat

Court).

15. 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

3rd November, 2025
(virender)