IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No. 3 of 2012 with RFAs No. 622, 623 & 624 of 2011 with Cross Objections No. 1000 to 1003 of 2012

Reserved on:12.03.2026
Decided on: 06.04.2026

1. RFA No. 03 of 2012 & Cross Objection No. 1003 of 2012:

Surinder Singh ....Appellant/Non-objector.

Versus

Collector Land Acquisition & another

…Respondents/Cross Objectors.

2. RFA No. 622 of 2011 & Cross Objection No. 1000 of 2012:

Biri Singh & another ....Appellants/Non-objectors.

Versus

Collector Land Acquisition & another

…Respondents/Cross Objectors.

3. RFA No. 623 of 2011 & Cross Objection No. 1001 of 2012:

Ravi Singh ....Appellant/Non-objector.

Versus

Collector Land Acquisition & another

…Respondents/Cross Objectors.

4. RFA No. 624 of 2011 & Cross Objection No. 1002 of 2012:

Geeta Devi & another ....Appellants/Non-objectors.

Versus

Collector Land Acquisition & another

…Respondents/Cross Objectors.

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

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

For the appellant(s):	Mr.V.S. Chauhan, Senior Advocate, with Ms. Bhavani Negi, Advocate, in RFA No. 03 of 2012 and Mr. Deepak Kaushal, Senior Advocate, with Mr. Aditya Chouhan and Mr. G.R. Palsra, Advocates, in RFAs No. 622 to 624 of 2011.
For the respondent/State:	Mr. B.N. Sharma, Mr. Manoj Chauhan and Mr. Raj Negi, Additional Advocates Genera, with Mr. Ankush Thakur, Mr. Balvinder Singh Ballu and Ms. Archna Negi, Deputy Advocates General.
For the cross-objectors:	Mr. Bhupinder Gupta, Senior Advocate, with Mr. Ajeet Singh Pal, Advocate, in all the Cross Objections.

Sushil Kukreja, Judge.

Since all these appeals and cross objections are the offshoots of award, dated 16.08.2011, passed by learned Additional District Judge, Mandi, H.P. (hereinafter referred to as "the learned Reference Court"), the same are taken up together and being disposed of by a common judgment.

2. The instant appeals have been preferred by the appellants, who were petitioners/claimants before the learned Reference Court, under Section 96 of the Code of Civil Procedure read with Section 54 of the Land Acquisition Act (for short "the Act") against award dated 16.08.2011, passed by

learned Reference Court, with a prayer that the appeals be allowed by setting-aside the impugned award, passed in their petitions and the market value of their acquired land be assessed and declared as not less than Rs.35,000/- per biswa, irrespective of the classification. On the other hand, Himachal Pradesh Housing and Urban Development Authority (respondent No. 2 before the learned Reference Court) preferred cross objections in all the appeals under Section 41 Rule 22 CPC against the impugned award with a prayer that the cross objection(s) be allowed and impugned award passed by the learned Reference Court be suitably modified so as to bring the same in conformity with the provisions of the Act.

3. The facts giving rise to the instant appeals and cross objections are that Government of Himachal Pradesh issued notification for acquisition of land measuring 37-16-01, situated in Muhal Sanyard, Tehsil and District Mandi, H.P., and the said notification was published in Rajpatra on 17.08.1999 and also in news-papers, i.e., Divya Himachal and Virpartap on 10.09.1999. Subsequently, notification under Sections 6 and 7 of the Act was issued on 26.07.2000 and the same was published in Rajpatra on 07.08.2000 and also in two daily newspapers, i.e., Dainik Virpartap and Ajit Samachar on

14.08.2000. Ultimately, the Land Acquisition Collector determined the value of various types of land as under:

Classification of the land	**Rate per bigha**
Barani bagicha phaldar	Rs.4,05,280/-
Barani abal	Rs.3,09,026/-
Barani doam	Rs.2,53,300/-
Banjar kadeem	Rs.75,990/-
Karater	Rs.60,792/-

4. On the basis of the above valuation, the Land Acquisition Collector awarded compensation of Rs.81,740/- for forest trees and Rs.2,47,876/- for fruit trees. The total compensation awarded to the petitioners/claimants was to the extent of Rs.1,24,59,550/-.

5. The petitioners/claimants feeling aggrieved filed present reference petitions under Section 18 of the Act before the learned Reference Court below for enhancement of the compensation and the learned Reference Court, after considering all the material, passed the impugned award, dated 16.08.2011, whereby the petitioners/claimants were held entitled for enhanced compensation at the rate of Rs.12,741/- per biswa qua the acquired land alongwith solatium, additional amount of compensation and interest etc..

6. The petitioners/claimants still feeling dissatisfied, preferred the instant appeals with a prayer that the appeals be allowed by modifying the impugned award, passed in their petitions and the market value of their acquired land be assessed as not less than Rs.35,000/- per biswa, irrespective of the classification. Conversely, cross-objector, i.e., H.P. Housing & Urban Development Authority, preferred cross-objections in all the appeals with a prayer that the cross objection(s) be allowed and impugned award passed by the learned Reference Court be suitably modified so as to bring the same in conformity with the provisions of the Act.

7. The learned Senior Counsel for the appellants 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.19,111/- per biswa as the market value of the acquired land was not less than Rs.35,000/- per biswa. They further contended that the learned Reference Court had also erred in deducting 33⅓ from the market value of the land, thus, arising at payable price of Rs.12,741/- per biswa. They 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.

8. Conversely, learned Senior Counsel for the cross-objector(s) contended that the impugned award suffers from legal infirmities. He contended that the learned Reference Court also gravely erred in law in directing the payment of interest from the date of award, i.e., 26.07.2002, whereas interest, as per the provisions of the Act, was payable from the date of taking of possession. The possession was taken over by respondent No. 2/cross-objector on 09.12.2002, thus the interest was payable w.e.f. 09.12.2002 under Section 34 of the Act and not from 26.07.2002, i.e., the date of award.

9. I have heard the learner Senior Counsel for the appellants, learned Additional Advocate General for the respondent No. 1/State, learned Senior Counsel for respondent No. 2/cross-objector(s) and carefully examined the entire records.

10. 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.

11. 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."***

12. 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……."***

13. 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)."***

14. 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."***

15. In the instant case, the petitioners/claimants as well as the respondents have produced on record various sale deeds, details whereof are as under:

Sr. No.	Sale deed	Dated	Khasra No.	Area in bigha	Price	Price per biswa
1.	Ex.PW-2/A	26/12/1998	687/15/3/1, 158/2/1	0-5-4 bigha	Rs.156000/-	Rs.30000/-
2.	Ex.PW-3/A	24/12/1999	48	0-0-15 bigha	Rs.33000/-	Rs.44,000/-
3.	Ex.PW-5/A	23/10/2000	780/73	0-3-0 bigha	Rs.89,000/-	Rs.29,667/-
4.	Ex.PA	23/10/2000	814/743/161	0-4-0 bigha	Rs.135000/-	Rs.33750/-
5.	Ex.PB	28/08/2000	136/1	0-5-10 bigha	Rs.175000/-	Rs.31818/-
6.	Ex.PC	31/03/2000	724/355, 726/356,	0-2-0 bigha	Rs.52000/-	Rs.26000/-

			660/342			
7.	Ex.PD	15/02/1999	73	0-2-0 bigha	Rs.50000/-	Rs.25000/-
8.	Ex.RW-2/A	10/12/1998	744/161, 747/162	0-10-11 bigha	Rs.40000/-	Rs.3791/-
9.	Ex.R1	12/08/1999	658/334	0-4-10 bigha	Rs.66000/-	Rs.15000/-
10.	Ex.R2	22/07/1999	814/743/161	0-4-0 bigha	Rs.60000/-	Rs.15000/-
11.	Ex.R3	15/02/1999	73	0-4-0 bigha	Rs.60000/-	Rs.15000/-
12.	Ex.R4	01/01/1999	73	0-4-0 bigha	Rs.60000/-	Rs.15000/-
13.	Ex.R5	11/11/1998	45 & 49	0-0-13 bigha	Rs.4000/-	Rs.6185/-

16. The perusal of the sale deeds Ex.PW-5/A, PA, PB and PC relied upon by the petitioners clearly shows that these were executed in the year 2000 and sale deed, Ex. PW-3/A, was executed on 24.12.1999. Admittedly, notification under Section 4 of the Act was published in Rajpatra on 17.08.1999. Since the aforesaid sale deeds have been executed after the issuance of notification, therefore, the same cannot be taken into consideration for ascertaining the market value of the acquired land.

17. The respondents have relied upon sale deed, Ex. RW-2/A, executed on 10.12.1998, however, RW-2 Shri Amar Singh, who was examined to prove the aforesaid sale deed, admitted that the land under the aforesaid sale deed was located at a distance of about 500 meters from the acquired land and there was no approach to his land, as such, sale deed, Ex. RW-2/A, also cannot be taken into consideration, as

the position and location of the acquired land are different. The respondents have also produced on record sale deeds, Ex.R1, which was executed on 12.08.1999 for Rs.14,667/- per biswa, Ex.R2, executed on 22.07.1999 for Rs.15,000/- per biswa, Ex.R3, executed on 15.02.1999 for Rs.15,000/- per biswa, Ex. R4, executed on 01.01.1999 for Rs.15,000/- per biswa and Ex.R5, executed on 11.11.1998 for Rs.6185/- per biswa, whereas, the petitioners/claimants have produced sale deed, Ex. PD, which was executed on 15.02.1999, for Rs.25,000/- per biswa, and sale deed, Ex. PW-2/A, which was executed on 26.12.1998, for Rs.30,000/- per biswa. All these sale deeds have been executed prior to the issuance of notification issued under Section 4 of the Act.

18. It was contended by the learned Senior Counsel for the appellants that the learned Reference court had committed an error in taking into consideration the average value of the different sale transactions. 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. … … … … …"***

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 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.***
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> ***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 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 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 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 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,since sale deed, Ex. PW-2/A, is the highest of the exemplars, therefore, in view of the aforesaid judgments, the sale deed, Ex. PW-2/A has to be taken into consideration for determining the market value of the land under acquisition. As observed earlier, sale deed, Ex. PW-2/A, executed 26.12.1998 is for Rs.30,000/- per biswa and the land situated therein is comprised of Khasra No. 687/15/3/1, 158/2/1, measuring 0-5-4 bigha.

21. The learned Senior Counsel for the cross-objector contended that since sale deed, Ex. PW-2/A, pertains to a small piece of land, therefore, some amount of compensation has to be deducted out of the amount of compensation payable for the acquired land towards the development charges.

22. It is 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 v. 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.***
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> ***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.***
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> ***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 t 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.)***
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> ***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."***

23. In the case of ***Trishala Jain & another vs. State of Uttaranchal & 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 rt taken into consideration for all purposes and intents for determining the market value of the land in question.***
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> ***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]."***

24. Hon'ble Supreme Court in the case ***of Union of 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.***
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> ***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."***

25. In the instant case, it has come on record that the acquired land is quite adjacent to muhal Tarna, i.e., a thickly populated residential colony which is quite adjacent to Mandi town and it has great potential value. From the statements of PW-2,PW-4,PW-5 andPW-6, it has become clear that the acquired land is situated adjacent to the Mandi town and all facilities, viz., road, water, sewerage and electricity were already there. It has also come on record that some of the petitioners have developed the plots by leveling it after spending considerable amount. Therefore, least expenditure was required on account of development charges and other

possible expenditures. Hence, having regard to the entire facts and circumstances of the case, this Court is of the opinion that a deduction of 20% from the market value of the land will be appropriate by way of development charges to meet the ends of justice. Since sale deed, Ex. PW-2/A, is for Rs.30,000/- per biswa, therefore, after deducting 20% of the amount, the market value of the acquired land, for the of purpose of payment of compensation to the landowners,comes to Rs.24,000/- per biswa.

26. 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 looses 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."***

27. 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 appellants are entitled for compensation at the market value of the acquired land@Rs.24,000/- per biswa irrespective of its classification.

28. The contention of the learned Senior Counsel for the cross-objector that the learned Reference Court erred in law in directing the payment of interest from the date of award, whereas the interest, as per the provisions of the Act was payable from the date of taking of possession, is not devoid of any force. The perusal of the material available on record reveals that the possession was taken over by respondent No. 2/cross-objector on 09.12.2002, whereas the award was passed by the learned Land Acquisition Collector on 26.07.2002.

29. At this stage, it would be relevant to reproduce Section 34 of the Act, which reads as under:

> ***"34. Payment of interest.- When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of [nine per centum] per annum from the time of so taking possession until it shall have been so paid or deposited:***

> ***[Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per centum per annum shall be payable from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.]"***

30. In **Major General Kapil Mehra & others vs. Union of India & another*, (2015)2 SCC 262*** the Hon'ble Apex Court held that Section 34 of the Act fastens liability on the Collector to pay interest on the amount of compensation to be worked out in accordance with provisions of Section 23(1) and the sub-section thereof, at the rate of 9% per annum from the date of taking possession until the amount is paid or deposited. The relevant portion of the aforesaid judgment readsas under:

> ***"43. Land Acquisition Act, 1894, provides for payment of interest to the claimants either under Section 34 or under Section 28 of the Act. Section 34 of the Act fastens liability on the Collector to pay interest on the amount of compensation to be worked out in accordance with provisions of Section 23(1) and the sub-section thereof, at the rate of 9% per annum from the date of taking possession until the amount is paid or deposited. As per proviso to Section 34, if the compensation amount or any part thereof is not paid or deposited within a period of one year from the date of taking over possession, interest shall be payable at the rate of 15% per annum from the date of expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.***
>
> ***44. Section 28 empowers the courts, if it was enhancing the compensation awarded by the Collector, to award interest on the sum in excess of what the Collector had awarded as compensation. Both in terms of Section 34 and Section 28, interest at 9% per annum is payable for the first year of taking possession and 15% per annum thereafter, if the amount of compensation was not paid or deposited within a period of one year or deposited thereafter.***

45. Award of interest under Section 34 is mandatory in as much the word used in the Section is 'shall'. The scheme of the Act and the express provisions thereof establish that the interest payable under Section 34 is statutory. The claim for interest under Section 28 of the Act proceeds on the basis that due compensation not having been paid, the claimant should be allowed interest on the enhanced compensation amount. The award of interest under Section 28 is discretionary power vested in the Court and it has to be exercised in a judicious manner and not arbitrarily. The use of the word "may" in Section 28 does not confer any arbitrary discretion on the Court to disallow interest for no valid or proper reasons. Normally, Court awards interest if it enhances the compensation in excess of the amount awarded by the Collector, unless there are exceptional circumstances.

46. A Constitution Bench of this Court in Gurpreet Singh vs. Union of India, (2006) 8 SCC 457, considering the scope of Section 34 and Section 28 of the Act, has held as under:-

> ***"44. Section 34 of the Act fastens liability on the Collector to pay interest on the amount of compensation determined under Section 23(1) with interest from the date of taking possession till date of payment or deposit into the court to which reference under Section 18 would be made. On determination of the excess amount of compensation, Section 28 empowers the court, if it was enhancing the compensation awarded by the Collector, to award interest on the sum in excess of what the Collector had awarded as compensation. The award of the court may also direct the Collector to pay interest on such excess or part thereof from the date on which he took possession of the land to the date of payment of such excess into court at the rates specified thereunder. The Court stated: [Prem Nath Kapur vs. National Fertilizers Corporation of India Ltd., (1996) 2 SCC 71, SCC p. 77, para 10] "In other words, Sections 34 and 28 fasten the liability on the State to pay interest on the amount of compensation or on excess compensation under Section 28 from the date of the award and decree but the liability to pay interest on the excess amount of compensation determined by the Court relates back to the date of taking possession of the land to the date of the payment of such excess 'into the court'."***
>
> ***45. The Court concluded: (Prem Nath Kapur case, SCC p. 78, para 12) "12. It is clear from the scheme of the Act and the express language used in Sections 23(1) and (2), 34 and 28 and now Section 23(1-A) of the Act that each component is a distinct and separate one. When compensation is determined under Section 23(1), its quantification, though made at different levels, the liability to pay interest thereon arises from the***

> ***date on which the quantification was so made but, as stated earlier, it relates back to the date of taking possession of the land till the date of deposit of interest on such excess compensation into the court. … The liability to pay interest is only on the excess amount of [pic] compensation determined under Section 23(1) and not on the amount already determined by the Land Acquisition Officer under Section 11 and paid to the party or deposited into the court or determined under Section 26 or Section 54 and deposited into the court or on solatium under Section 23(2) and additional amount under Section 23(1-A).”***

31. Thus, in view of the aforesaid judgment of the Hon’ble Supreme Court, Section 34 of the Act fastens liability on the Collector to pay interest on the amount of compensation from the date of taking of possession till the date of the payment or deposit of the amount and not from the date of the award. In the case on hand, admittedly the possession was taken over by respondent No. 2/cross-objector on 09.12.2002 whereas the award was passed by the Land Acquisition Collector on 26.07.2002 as such the interest was payable w.e.f. 09.12.2002 under Section 34 of the Act and not from 26.07.2002, i.e., the date of award. Therefore, interest @ 9% per annum on the market value assessed shall be awarded from the date of taking of possession for one year and thereafter @ 15% per annum till the date of payment/deposit of the amount of compensation in accordance with Section 34 of the Act.

32. Hence, in view of what has been discussed hereinabove, the impugned award is modified to the extent that the petitioners shall be held entitled to enhanced compensation @ Rs.24,000/- per biswa in respect of the acquired land, irrespective of its classification. In addition, the petitioners are also entitled for following reliefs:

(i) Solatium @ 30% on the market value of the land assessed, as mentioned above;

(ii) additional compensation @ 12% per annum under Section 23(1-A) of the Act w.e.f. 10.09.1999, i.e., the date of publication of notification till the date of the award of the Collector, i.e., 26.07.2002; &

(iii) interest under Section 28 of the Act on the market value assessed under sub-section(1) of Section 23 of the Act, the additional compensation worked out under sub-section (1-A) of Section 23 of the Act, plus, solatium awarded under sub-section 23 of the Act, @ 9% per annum on the market value assessed from the date of taking over of possession by respondent No. 2/cross-objector, i.e., 09.12.2002, for one year and thereafter @ 15% per annum till the date of payment/deposit of the amount of

compensation in accordance with Section 34 of the Act.

33. In view of the aforesaid discussion, the appeals as well as the cross-objections are disposed of.

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

(Sushil Kukreja)
Judge

6th April, 2026
(virender)