2026:HHC:47873

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No. : 397 of 2026 a/w
CMPMO Nos. 317, 219, 321, 512
& 513 of 2026

Decided on : 30th October, 2026

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1. **CMPMO No. 397 of 2026**

Bishamber …Petitioner

Versus

General Manager, Ranjit Sagar
(Thein Dam) Project & Others …Respondents

2. **CMPMO No. 317 of 2026**

The Chief Engineer, Ranjit Sagar
(Thein Dam) Project & Others …Petitioner

Versus

Giano & Others …Respondents

3. **CMPMO No. 319 of 2026**

The General Manager, Ranjit Sagar
(Thein Dam)Project & Others …Petitioner

Versus

Rattan Chand (deceased)
through LRs & Others …Respondents

4. **CMPMO No. 321 of 2026**

The General Manager, Ranjit Sagar
(Thein Dam)Project & Others …Petitioner

Versus

Raj Kumar & Others …Respondents

5. **CMPMO No. 512 of 2026**

Brahmi (deceased) through LRs …Petitioners

Versus

General Manager, Ranjit Sagar
(Thein Dam)Project & Others …Respondents

6. **CMPMO No. 513 of 2026**

Mohinder Kumar & Others …Petitioners

Versus

General Manager, Ranjit Sagar
(Thein Dam)Project & Others …Respondents

Coram
The Hon'ble Mr. Justice Virender Singh, Judge.
Whether approved for reporting?[1]

CMPMO Nos. 397, 512 & 513 of 2026

For the petitioner(s) : Ms. Meenakshi Sharma, Mr. Narender Sharma & Mr. Suraj Sharma, Advocates.

For the respondent : Mr. Anuj Nag, Advocate for respondent No.1.

Mr. Mohinder Zharaick, Additional Advocate General, for respondents No.2 to 4.

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[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

CMPMO Nos. 317, 319 & 321 of 2026

For the petitioner(s) : Mr. Anuj Nag, Advocate.

For the respondent : Ms. Meenakshi Sharma, Mr. Narender Sharma & Mr. Suraj Sharma, Advocates, for the private respondents.

Mr. Mohinder Zharaick, Additional Advocate General, for respondents/ State.

Virender Singh, Judge (Oral)

The common question, involved, in the present case, is about the deduction of income tax on the enhanced amount of compensation, granted under the Land Acquisition Act.

2. The parties to the present proceedings are *ad idem* that the issue involved in the present case is squarely covered by the decision of the Hon'ble Supreme Court in ***Union of India & Others versus Hari Singh & Others, (2018) 15 Supreme Court Cases, 201***. Relevant paragraphs 7 of the judgment is reproduced as under:-

> *"7. We find force in the submission of the learned Additional Solicitor General insofar as the challenge to the direction given to the Land Acquisition Collector to determine as to whether*

the land in question is agricultural land or not. Since the Land Acquisition Collector had already deducted tax at source and deposited with the Income Tax Department, in such circumstances, better course of action, which is in consonance with the provisions of Income Tax Act, is for the respondents to approach the concerned Assessing Officer(s) and to raise the issue that no tax is payable on the compensation/enhanced compensation which is received by them as their land was agricultural land. Once such an issue is raised before the Assessing Officer(s), it is for the Assessing Officer(s) to examine the facts of each case and then apply the law as contained in the Income Tax Act to determine the aforesaid question. Insofar as these cases are concerned, we allow these appeals by setting aside the directions contained in paragraph 7 and substitute the same with the following directions:

7.1. The respondents shall file appropriate returns before the Assessing Officer(s) in respect of Assessment Years in question within a period of two months from today in case they feel that the compensation in respect of land belonging to them which had been acquired was agricultural land, and claim refund of the tax which was deducted at source and deposited with the Income Tax Department. On the filing of these returns, the Assessing Officer(s) shall go into the aforesaid question and wherever it is found that the compensation was received in respect of agricultural land, the tax deposited with the Income Tax Department shall be refunded to these respondents.

7.2. While determining as to whether the compensation paid was for agricultural land or not, the Assessing Officer(s) will keep in mind the provisions of Section 28 of the Land Acquisition Act and the law laid down by this Court in 'Commissioner of Income Tax, Faridabad v. Ghanshyam, 2009 (8) SCC 412, in order to

ascertain whether the interest given under the said provision amounts to compensation or not.

7.3. The direction to refund the amount of Tax Deducted at Source (TDS) to the Land Acquisition Collector is, accordingly, set aside. However, in those cases where the amount has already been refunded, no interference is called for and it will be for the Income Tax Department to proceed in accordance with the provisions of Income Tax Act.

7.4. Where such notices have not already been issued or assessments have not already been made, if such an action is taken within a period of two months from today, issue of limitation would not come in the way of the Income Tax Department. This order is passed having regard to the fact that the present proceedings were pending in this Court because of which it was not possible for the Income Tax Department to issue these notices earlier.

7.5. In future, Land Acquisition Collectors shall follow the procedure as stipulated by the High Court of Kerala in Nalini's case, which is reproduced above."

3. Even otherwise, this issue has elaborately been discussed and settled by the Hon'ble Supreme Court, in favour of the persons, whose land has been acquired, in ***Commissioner of Income Tax, Faridabad*** *versus* ***Ghanshyam (HUF), (2009) 8 Supreme Court Cases 412.*** Relevant paragraphs 30 to 35 of the judgment, are reproduced, as under:-

"30. The additional amount payable under Section 23(1A) of the 1894 Act is neither interest nor solatium. It is an additional compensation designed to compensate the owner of the land, for the rise in price during the pendency of the land acquisition proceedings. It is a measure to offset the effect of inflation and the continuous rise in the value of properties. [See: State of Tamil Nadu and others etc. v. L. Krishnan and others etc. - AIR 1996 SC 497]. Therefore, the amount payable under Section 23(1A) of the 1894 Act is an additional compensation in respect to the acquisition and has to be reckoned as part of the market value of the land. Sub-section (1A) of Section 23 was introduced by Land Acquisition (Amendment) Act, 1984. It provides that in every case the Court shall award an amount as additional compensation at the rate of 12% per annum on the market value of the land for the period commencing on and from the date of publication of the notification under Section 4(1) to the date of the award of the Collector or to the date of taking possession of the land, whichever is earlier. In other words sub- section (1A) of Section 23 provides for additional compensation. The said sub-section takes care of increase in the value at the rate of 12% per annum.

31. In addition to the market value of the land, as above provided, the Court shall in every case award a sum of 30% on such market value, in consideration of the compulsory nature of acquisition. This is under Section 23(2) of the 1894 Act. In short, Section 23(2) talks about solatium. Award of solatium is mandatory. Similarly, payment of additional amount under Section 23(1A) is mandatory.

33. The award of interest under Section 28 of the 1894 Act is discretionary. Section 28 applies when the amount originally awarded has been paid or deposited and when the Court awards excess amount. In such cases interest on that excess

> *alone is payable. Section 28 empowers the Court to award interest on the excess amount of compensation awarded by it over the amount awarded by the Collector. The compensation awarded by the Court includes the additional compensation awarded under Section 23(1A) and the solatium under Section 23(2) of the said Act. This award of interest is not mandatory but is left to the discretion of the Court.*
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> *34. Section 28 is applicable only in respect of the excess amount, which is determined by the Court after a reference under Section 18 of the 1894 Act. Section 28 does not apply to cases of undue delay in making award for compensation [See: Ram Chand & others etc v. Union of India & Ors. - 1994(1) SCC 44]. In the case of Shree Vijay Cotton & Oil Mills Ltd. v. State of Gujarat- (1991) 1 SCC 262, this Court has held that interest is different from compensation.*
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> *35. To sum up, interest is different from compensation. However, interest paid on the excess amount under Section 28 of the 1894 Act depends upon a claim by the person whose land is acquired whereas interest under Section 34 is for delay in making payment. This vital difference needs to be kept in mind in deciding this matter. Interest under Section 28 is part of the amount of compensation whereas interest under Section 34 is only for delay in making payment after the compensation amount is determined. Interest under Section 28 is a part of enhanced value of the land which is not the case in the matter of payment of interest under Section 34."*

4. In view of the above decisions, the orders under challenge, in these petitions are set aside and the matter is remanded back to the learned District Judge, Chamba to re-

calculate the amount, for which the petitioners are entitled to, in view of the decision of the Hon'ble Supreme Court in ***Hari Singh***'s case (supra).

5. Parties, through their learned counsel, are directed to appear before the learned trial Court on 20th November, 2026.

6. With these observations, the present petitions are disposed of, so also the pending miscellaneous application(s), if any.

(Virender Singh)
Judge

October 30, 2026*(ps)*