



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

RFA No. 174 of 2013 a/w RFA Nos. 175,  
176 and 177 of 2013.

Reserved on: 20.4.2023

Date of decision : 25.4.2023.

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1. **RFA No. 174 of 2013**  
Principal Secretary, PWD & others ...Appellants.  
Versus  
Mehtar Chand & others ...Respondents
2. **RFA No. 175 of 2013**  
Principal Secretary, PWD & others ...Appellants  
Versus  
Dharmpal & another ...Respondents
3. **RFA No. 176 of 2013**  
Principal Secretary, PWD & others ...Appellants  
Versus  
Roshan Lal ...Respondent
4. **RFA No. 177 of 2013**  
Principal Secretary, PWD & others ...Appellants  
Versus  
Bansi Ram & others ...Respondents.
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*Coram:*

***The Hon'ble Mr. Justice Satyen Vaidya, Judge.***

*Whether approved for reporting?*<sup>1</sup> Yes.

For the appellants : Mr. Mohinder Zharaick, Additional  
Advocate General.

For the respondents : Mr. Virender Chauhan, Advocate,  
vice Mr. Surinder Saklani,  
Advocate.

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<sup>1</sup> ***Whether reporters of Local Papers may be allowed to see the judgment?***

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All these appeals filed under Section 54 of the Land Acquisition Act have been heard and are being decided together, as these involved common question of facts and law and have also arisen from a common award dated 19.8.2011, passed by learned Additional District Judge, Mandi.

2. The State Government issued notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') on 8.7.1992 for acquiring land measuring 0-41-23 hectares in Village Alyana, Tehsil Sarkaghat, District Mandi, H.P. for construction of Sarori-Rissa Road. The land was to be acquired, as noticed above, included the lands of respondents in the instant appeals.

3. The Land Acquisition Collector, HP PWD, Mandi vide award dated 7.12.1995 offered the market value of Rs. 13,166.20 for entire land proposed to be acquired.

4. The respondents herein and other land owners whose land was sought to be acquired filed reference petitions under Section 18 of the Act, which were registered as Reference Petitions No. 50 to 60 of 2003. The

instant appeals arise out of Reference Petition No. 53 of 2003, titled as, Pat Ram deceased through LRs Mehar Chand and others vs. Land Acquisition Collector & another, Reference Petition No. 58 of 2003 titled as, Melahar deceased through LRs Bansi Ram & others vs. Collector Land Acquisition & another, Reference Petition No. 56 of 2003, titled as, Roshan Lal vs. Collector Land Acquisition & another and Reference Petition No. 54 of 2003 titled Santu deceased through LRs, Dharampal & another vs. Collector Land Acquisition & another.

5. All the above noted Reference Petitions were decided by learned Additional District Judge, Mandi vide award dated 19.8.2011. The compensation was reassessed at the rate of Rs. 31.30 per square meters for land irrespective of its classification. The benefit of consortium and interest under Sections 23 (1)(a), 28 and 34 of the Act was also awarded.

6. Aggrieved against the award passed by learned Additional District Judge in Reference Petitions No. 53, 58, 56 and 54 of 2003, the appellants have assailed the same

before this Court by filing appeals under Section 54 of the Act.

7. I have heard the learned counsel for the parties and have also gone through the record carefully.

8. Mr. Mohinder Zharaick, learned Additional Advocate General has contended that the impugned award deserves interference, as the learned Reference Court has based its findings on only one exemplar sale deed dated 26.8.1993, Ext. PW-1/A. He further contended that the area sold vide Ext. PW-1/A was only 0-2-13 hectares and the sale deed for such a small area could not have been legally made the basis for determining the market value of the land. Learned Additional Advocate General has also taken exception to the impugned award on the ground that Ext. PW-1/A could not have been relied upon as an exemplar sale deed by learned Reference Court, as the transaction recorded therein was much subsequent in time to the date of issuance of notification under Section 4 of the Act.

9. The first contention raised by learned Additional Advocate General that on account of smallness of the land

involved in exemplar sale deed, the market value could not be assessed, needs to be rejected for the reasons that the learned Reference Court had assessed the market value by making deduction at the rate of Rs. 33.33/- percent from the market value of Rs. 46.94/- per square meters. Learned Reference Court after making such deduction had assessed the market value only of Rs. 31.30/- per square meters.

10. The next contention raised by learned Additional Advocate General is to the effect that reference to the sale deed Ext. PW-1/A being later in time to the date of notification under Section 4 of the Act was impermissible. The sale deed Ext. PW-1/A relied upon by learned Reference Court was executed on 26.8.1993 i.e. almost after eleven months of issuance of notification under Section 4 of the Act.

11. In ***General manager, OIL and Natural Gas Corporation Ltd vs. Rameshbhai Jivanbhai Patel 2008 (14) SCC 745***, it has been held that the assessment of market value should be avoided on the exemplar sale transactions, which have taken place after the issuance of

notification under Section 4 of the Act. Para-16 of the judgment reads as under:-

*“16. Much more unsafe is the recent trend to determine the market value of acquired lands with reference to future sale transactions or acquisitions. To illustrate, if the market value of a land acquired in 1992 has to be determined and if there are no sale transactions/acquisitions of 1991 or 1992 (prior to the date of preliminary notification), the statistics relating to sales/acquisitions in future, say of the years 1994-95 or 1995-96 are taken as the base price and the market value in 1992 is worked back by making deductions at the rate of 10% to 15% per annum. How far is this safe? One of the fundamental principles of valuation is that the transactions subsequent to the acquisition should be ignored for determining the market value of acquired lands, as the very acquisition and the consequential development would accelerate the overall development of the surrounding areas resulting in a sudden or steep spurt in the prices. Let us illustrate. Let us assume there was no development activity in a particular area. The appreciation in market price in such area would be slow and minimal. But if some lands in that area are acquired for a residential/commercial/industrial layout, there will be all round development and improvement in the infrastructure/ amenities/facilities in the next one or two years, as a result of which the surrounding lands will become more valuable. Even if there is no actual improvement in infrastructure, the potential and possibility of improvement on account of the proposed residential/commercial/ industrial layout will result in a higher rate of escalation in prices. As a result, if the*

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*annual increase in market value was around 10% per annum before the acquisition, the annual increase of market value of lands in the areas neighbouring the acquired land, will become much more, say 20% to 30%, or even more on account of the development/proposed development. Therefore, if the percentage to be added with reference to previous acquisitions/sale transactions is 10% per annum, the percentage to be deducted to arrive at a market value with reference to future acquisitions/sale transactions should not be 10% per annum, but much more. The percentage of standard increase becomes unreliable. Courts should therefore avoid determination of market value with reference to subsequent/future transactions. Even if it becomes inevitable, there should be greater caution in applying the prices fetched for transactions in future. Be that as it may.”*

12. In light of above exposition, the learned Reference Court was not right in assessing the market value of exemplar sale deed, which was executed after about eleven months from the date of issuance of notification under Section 4 of the Act. Noticeably, except exemplar sale deed Ext. PW-1/A, the learned Reference Court has not placed reliance on any other evidence for assessment of market value of the land. Thus, the impugned award, passed in Reference Petitions No. 53, 58, 56 and 54 of 2003 cannot be sustained.

13. Accordingly, the appeals are allowed. The impugned awards are set aside and the matters are remanded back to learned Reference Court to decide Reference Petitions No. 53, 58, 56 and 54 of 2003 afresh. Since initiation of reference petitions dates back to the year 2002, it is expected from the learned Reference Court that the above noted reference petitions will be decided by such Court with sufficient expedition and preferably within three months from the date of receipt of this judgment. Record be sent back forthwith. Pending applications, if any, also stand disposed of.

25<sup>th</sup> April, 2023  
(kck)

**(Satyen Vaidya)**  
**Judge**