

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

**RFA No. 224 of 2014 with  
Cross Objection No. 71 of  
2018**

**Reserved on: 22.12.2025  
Date of decision: 01.01.2026**

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General Manager, Northern Railway  
.....Appellant/Non-cross-objector.  
Versus

Krishan Dev Singh & others  
.....Respondents/cross-objectors.

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*Coram*

**The Hon'ble Mr. Justice Sushil Kukreja, Judge.**

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

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For the appellant/  
non-cross-objector: Mr. Shiv Pal Manhans, Senior  
Panel Counsel.

For respondents No. 1 to 9/  
cross-objectors: Mr. Ajay Kumar, Sr. Advocate,  
with Mr. Rohit, Advocate.

For respondent No. 12/  
State: Mr. Balwinder Singh, Deputy  
Advocate General.

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**Sushil Kukreja, Judge.**

The instant appeal has been maintained by the appellant-General Manager, Northern Railways, who was respondent No. 2 before the learned Court below (hereinafter referred to as “the appellant”), under Section 54 of the Land

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

Acquisition Act, 1894 (for short “the Act”), against award dated 31.07.2012, passed by learned District Judge, Una, District Una, H.P. (hereinafter referred to as “the learned Reference Court”), in Land Reference Petition No. 38 of 2009, whereby the claim petition filed by the petitioners/claimants (respondents No. 1 to 10 herein) was allowed and they were held entitled for enhanced compensation @ of Rs.700/- per square meter, irrespective of the kind/classification of the acquired land alongwith solatium, additional compensation and interest etc..

2. The brief facts of the case are that the Government of Himachal Pradesh, the Department of Planning, vide Notification, dated 25.10.2004, issued under Section 4 of the Act, which was published in H.P. Government Gazette on 13.11.2004, intended to acquire land of the petitioners for construction and laying of Nangal-Talwara Broad Gauge Railway Line. The acquired land was measuring 0-03-76 hectares, comprised in Khewat No. 447 min, Khatauni No. 980 min, khasra No. 3501/1, situated in village Kuthiari, Tehsil Amb, District Una, H.P.. Thereafter, notification under Section 6 of the Act was issued on 28.03.2005, which was published in H.P. Government

Gazette on 23.04.2005 and ultimately the Land Acquisition collector (Railways), Una, passed the award by assessing the market value of the land '*Banjar Qudim and Khadater*' @ Rs.10/- per square meter.

3. The petitioners/claimants, feeling aggrieved with the award of the Land Acquisition Collector (Railways), Una, preferred Reference 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 had not assessed the value of the land properly and inadequate compensation was awarded. As per the petitioners, the acquired land was situated near *abadies* village Thathal and village Katohar Khurd and it was abutting village road. The acquired land was valuable and fit for commercial purposes and it was located in close proximity of Sub-Division, Amb. The petitioners further averred that government offices, like Tehsil, Treasury, PWD, Irrigation, Electricity and other authorities were located near the acquired land and there were various industrial units as well as educational institutions. The acquired land was suitable for development of shopping centre and picnic spot and the value of the same was not less than Rs.2,00,000/- per marla,

whereas very less compensation was awarded to them. The petitioners/claimants also averred that the acquired land was irrigated one and compensation for valuable crops and the trees standing thereon was not assessed and paid to them. Lastly, the petitioners sought enhanced compensation alongwith all the statutory benefits.

4. The learned Reference Court, allowed the petitions and held the petitioners/claimants entitled for enhanced compensation @ of Rs.700/- per square meter, irrespective of kind/classification of the land. In addition to the above, the petitioners were also held entitled to all the statutory benefits, i.e., solatium, compulsory acquisition allowances and interest etc.. Hence, the appellant/General Manager, Northern Railways preferred the instant appeal. The petitioners/claimants also preferred Cross Objection No. 71 of 2018 in the instant appeal, with a prayer to allow their Cross Objection and enhance the compensation @ Rs.900/- pr square meter with all consequential statutory benefits.

5. I have heard the learned Senior Panel Counsel for the appellant, learned Senior Counsel for respondents No. 1 to 9/cross-objectors, learned Deputy Advocate General for respondent No. 12/State and also carefully examined the

records.

6. Learned Senior Panel Counsel for the appellant contended that the impugned award is based on conjectures and surmises and the findings so recorded by the learned Reference Court are not supported by the evidence on record. He further contended that the learned Reference Court had ignored the material evidence on record and granted excessive amount of compensation arbitrarily without any reason. He also contended that the learned Reference Court had erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land. Lastly, he submitted that the appeal be allowed and impugned award dated 31.07.2012 passed by the learned Reference Court be quashed and set-aside.

7. Conversely, learned Counsel for respondents No. 1 to 9/claimants/cross-objectors contended that compensation qua the acquired land was inadequate and meager and the learned Reference Court had erred gravely in assessing the market value of the acquired land by ignoring the evidence. He further contended that the findings of the learned Reference court are based on surmises and conjectures and the claimants are entitled to enhanced

compensation @ Rs.900/- per square meter. Lastly, he submitted that the cross-objections of the claimants be allowed and the compensation be enhanced to Rs.900/- per square meter with all consequential statutory benefits.

8. 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.

9. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs and 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.”*

10. In ***Atma Singh & others vs. State of Haryana & another (2008) 2 SCC 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.***
- 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.”***

11. The onus was upon the petitioner/claimant to

prove the market value of the land at the time of the issuance of the notification under Section 4 of the Act. In order to assess the market value of the land in question, the petitioners had placed on record two sale deeds, Ex. P1 and Ex. P2. The petitioners have also tendered in evidence copy of award, Ex.PX, passed in Reference Petition No. 3 of 2010, titled as Himmat Kumar & others vs. Land Acquisition Collector & others.

12. On the other hand, respondent No. 2- (appellant herein) had produced sale deeds, Ex.R1 to R4, and as per these sale deeds, the land in village Kuthiari was sold at less than Rs.10/- per square meter. However, in view of Section 25 of the Act, the learned Reference Court had rightly ignored sale deeds, Ex.R-1 to R-4, for the reason that the sale instances thereof were of rates less than what was awarded by the Land Acquisition Collector, through award No. 10 of 2006-2007, Ex. RW-1/A.

13. 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.”***

14. Thus, in absence of any direct evidence, the court, may take recourse to judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. In the instant case, the perusal of the record reveals that the learned Reference court had assessed the market value of the land in question after

placing reliance upon award Ex.PX, which pertains to the land situated in adjoining village Thathal. As per the evidence on record, the acquired land was in village Kuthiari, which was adjoining to the land situated in village Thathal. The date of notification under Section 4 of the Act in the present case is 25.10.2004, whereas in award Ex.PX, the date of notification was 14.07.2005, meaning thereby that the land of the petitioners/claimants was acquired about 8-9 months prior to that of village Thathal and vide award Ex.PX, compensation for the acquired land in village Thathal was enhanced at the rate of Rs.800/- per square meter. Since, the land of the petitioners/claimants was acquired about 8-9 months prior to that of village Thathal, the learned Reference Court had rightly assessed the market value of the acquired land @ Rs.700/- per square meter on the basis of award Ex.PX. The cross-objectors have failed to produce any cogent and satisfactory evidence on record to prove that the market value of the land at the time of issuance of notification under Section 4 of the Act was Rs.900/- per square meter.

15. The learned Counsel for the appellant next contended that the Reference Court had erred in awarding

uniform rate for the entire land by ignoring the classification and nature of the land. However, this contention of the learned counsel for the appellant is devoid of any force, as 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 uniformly 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.***

***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.***

***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.***

***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.”***

16. 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.

17. Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Counsel for the appellant that the learned Reference Court had 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 Nangal-Talwara Broad Gauge Railway Line.

18. Hence, in view of what has been discussed hereinabove, no fault can be found in the impugned award dated 31.07.2012, passed by the learned Reference Court.

Therefore, the instant appeal as well as the cross-objections, being devoid of merits, deserve dismissal and are accordingly dismissed.

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

**( Sushil Kukreja )**  
**Judge**

**1<sup>st</sup> January, 2026**  
*(virender)*