

**(2025) 12 SHI CK 0002**

**Himachal Pradesh HC**

**Case No:** Regular First Appeal No. 478 Of 2010, 01, 03 Of 2011

H.P. Housing & Urban  
Development Authority &  
Another

APPELLANT

Vs

Sohan Singh (Since Deceased  
Through His Lrs) & Others

RESPONDENT

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**Date of Decision:** Dec. 2, 2025

**Acts Referred:**

- Land Acquisition Act, 1894-Section 4, 4(1), 6, 7, 18, 23, 54

**Hon'ble Judges:** Sushil Kukreja, J

**Bench:** Single Bench

**Advocate:** Bhupinder Gupta, Janesh Gupta, Vipin Pandit, Manoj Chauhan, Amandeep Sharma, Ankush Thakur, Devyani Sharma, Anirudh Sharma

**Final Decision:** Dismissed

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### **Judgement**

Sushil Kukreja, J

1. Since all these appeals are the offshoots of award, dated 30.09.2010, passed by learned District Judge, Fast Track Court, Solan, District Solan, H.P. (hereinafter referred to as "the learned Reference Court"), they are taken up together for disposal.

2. RFAs No. 01 to 03 of 2011 have been filed by the appellants-H.P. Housing & Urban Development Authority (hereinafter referred to as "HIMUDA"), who were respondents before the learned Reference Court, under Section 54 of the Land Acquisition Act (for short "the Act") against impugned award, dated 30.09.2011, passed in Petitions No. 15FTV/4 of 06/05, 2FTC/4 of 06/05 and 16FTC/4 of 06/05, whereby the petitions filed by the petitioners/claimants (respondents in the above mentioned petitions), under Section 18 of the Act were allowed and they were held entitled for enhanced compensation at the rate of Rs.10,00,000/- per bigha alongwith solatium, additional compensation, interest etc., with a prayer to set-aside the impugned award and to dismiss the reference petitions in t tal with costs throughout.

3. Appellant-Nanak Chand, who was one of the petitioners/claimants before the learned Reference Court, in Petition No. 2FTC/4 of 06/05, preferred RFA No. 478 of 2010, under Section 54 of the Act, against impugned award, dated 30.09.2010, with a prayer to modify the impugned award by determining the market value of the land at the rate of Rs.15,00,000/- per bigha alongwith all the statutory benefits.

4(a). The brief facts of the case are that vide Award No. 1 of 2005, dated 03.05.2005, which was passed by Land Acquisition Collector-Himachal Pradesh Housing & Urban Development Authority (HIMUDA) the petitioners/claimants were awarded compensation. However, the petitioners, being aggrieved and dissatisfied with the aforesaid award, preferred petitions before the learned Reference Court. Since the land in question was situated in the same Mohal and the petitions, so preferred by the petitioners, were qua the same award, the learned Reference Court consolidated all the petitions and decided the same by way of impugned award dated 30.09.2010.

4(b). Notification under Section 4 of the Act qua acquisition of land in question measuring 71-11 bighas, in village Mohal Khadeen, Tehsil Kasauli District Solan, H.P., was issued on 19.02.2003 and it was published in newspapers, i.e., Dainik Veer Pratap, Dainik Bhaskar on 21.03.2003 and in H.P. Rajpatra on 28.03.2003. The above land was acquired for residential as well as industrial purpose. Thereafter, notification under Sections 6 and 7 was issued on 16.12.2003 and it was published in newspapers, i.e., Dainik Bhaskar and Dainik Veer Pratap on 12.01.2004 and 13.01.2004. Considering the growing demand of industrial plots, the acquired land was to be utilized for industrial purpose instead of residential purpose and ultimately award was pronounced on 03.05.2005 and the Collector awarded compensation to the petitioners/claimants under different heads. As per the petitioners, the Land Acquisition Collector assessed the market value on lesser side, as the market value of the acquired land was not less than Rs.30,00,000/- per bigha and the petitioners sought the aforesaid amount besides all statutory benefits. The petitioners further averred that the award passed by the learned Land Acquisition Collector was unjust, thus not sustainable in the eyes of law. The Land Acquisition Collector considered the revenue record, which was more than 90 years old, therefore, gravely erred in not considering various developmental works and change in the nature of kind of the land.

4(c). The petitioners further averred that they had their only residential accommodation on the acquired land and its worth was Rs.30,00,000/-, but the Land Acquisition Collector did not properly evaluate the same. The acquired land was adjoining to Parwanoo Township, which had high commercial value and the acquired land was in the village where there were many industries in existence for the last 8-10 years. The petitioners also averred that village Khadeen was well connected to roads, it had water supply scheme and natural resources of water, electricity and other basic amenities. The land was situated in a highly developed area having huge industrial potential, as the industrialists were ready to purchase the land @ rupees thirty to forty lacs per bigha. As per the petitioners/claimants, HIMUDA was selling land @ Rs.5000/- per square meter in the adjoining area, meaning thereby @ Rs.36,00,000/- to 37,00,000/- per bigha. Thus, HIMUDA had no right to acquire the land at lesser price. Lastly, the petitioners sought compensation @ Rs.30,00,000/- per bigha.

5. The learned Reference Court, allowed the petitions of the claimants and held them entitled for enhanced compensation at the rate of Rs.10,00,000/-(rupees ten lacs) per bigha. In addition to the above, the petitioners were also held entitled to solatium, additional compensation, interest on the enhanced amount of compensation. Hence, the appellants-HIMUDA preferred RFAs No. 1 to 3 of 2011, with a prayer to set-aside the impugned award, dated 30.09.2010, and to dismiss the reference petitions, whereas appellant-Nanak Chand, who during the pendency of the instant appeals expired and now his appeal is being pursued by his LRs, preferred RFA No. 478 of 2010, with a prayer to modify the impugned award by determining the market value of the acquired land at the rate of Rs.15,00,000/- per bigha alongwith all the statutory benefits.

6. I have heard the learned Counsel for the respective parties and learned Additional Advocate General for the state and also carefully examined the records.

7. Shri Bhupinder Gupta, learned Senior Counsel for the appellants-HIMUDA contended that the impugned award is highly unjust, illegal, arbitrary, against facts and law, as such the same is liable to be dismissed. He further contended that the impugned award is based on surmises and conjectures and against the evidence available on record as the learned Reference Court had assessed the market value wrongly and the sale deeds produced by the parties were not taken into consideration. He also contended that the learned Reference Court had wrongly appreciated the material on record and wrongly assessed the market value of the acquired land @ Rs.10,00,000/- per bigha, therefore, impugned award dated 30.09.2010 passed by the learned Reference Court deserves to be set-aside.

8. On the other hand, Mrs. Devyani Sharma, learned Senior Counsel for the appellant (in RFA No. 478 of 2010) contended that the impugned award deserves to be modified, as the market value of the land of the petitioners-claimants was not less than Rs.20,00,000/- per bigha. She further contended that the market value of adjoining Mauja Kamli was rightly taken into consideration by the learned Reference Court, but those rates were not applied in the case of the petitioner/claimants. The entire acquired land was used for commercial purpose and the plots from the acquired land were sold at the rate of Rs.2700/- per square meters in March/April, 2006, therefore, the learned Reference Court ought to have awarded compensation @ Rs.20,00,000/- per bigha. She also contended that the acquired land had high commercial value, therefore, the award deserves to be modified and the market value @ Rs.15,00,000/- per bigha be awarded to the petitioners by allowing their appeal.

9. 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 let 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.

10. 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.”***

11. 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 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 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."***

12. 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)."*

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. In the case on hand, the perusal of impugned award shows that in order to prove their case, the petitioners examined Shri Pratap Singh (PW-1) and Shri Narata Ram (PW-2), who tendered in evidence their affidavits, Ex. PW-1/A and Ex. PW-2/A, respectively. PW-1 also tendered in evidence sale deeds, Ex. P1 to P5, pertaining to Mauja Kamli and Guma, which relate to years 2001 and 2002, i.e., before the issuance of notification under Section 4 of the Act. The above sale deeds show that the average price of 0-02-00 hectare of land in these maujas was approximately between Rs.1,50,000/- to 2,00,000/-. PW-1 categorically denied that the acquired land was at a distance of 3 kilometers from Parwanoo Industrial Area. PW-1 and PW-2 stated that HIMUDA had auctioned some plots out of the acquired land and in auction, dated 05.03.2006, the average price was Rs.2937.50/- per square meter. PW-2 admitted the exhibition of sale deed, Ex. R-1, which was relied upon by the respondents. He further deposed that he had sold the land for Rs.20,00,000/- but in sale deed price was mentioned only as Rs.60,000/-. Shri Bhagat Ram (PW-3) and Shri Narata Ram (PW-4), who were residents of Kamli, in their affidavits, Ex. PW-3/A and Ex. PW-4/A, gave details of some industries established in village Kamli and as per them the value of their lands in the year 2000 was approximately between rupees thirty to forty lacs per bigha and villages Kamli and Khadeen were adjoining villages.

15. PW-5 Shri D.D. Gautam, Executive Engineer, HPPWD (Retd.) and working as Registered Valuer, in his affidavit, Ex. PW-5/A, deposed that he visited the spot on 9. 12.2006 alongwith PW-4 and inspected various industrial establishments, landscapes, sources/access of water and building material. As per his report, the land in village Khadeen was rupees twelve to thirteen lacs per bigha in March, 2003. PW-6 Shri R.C. Sehgal, Executive Engineer, HPPWD (Retd.), on 31.08.1990 prepared the site plan, Ex. PW-6/A.

16. On behalf of the respondents, Shri Ashok Kumar Gupta, Architect, HIMUDA (RW-1), filed his affidavit, Ex. RW-1/A, and tendered site plan, Ex. RW-1/B, which shows that the acquired land was being utilized for industrial plots and

24 industrial plots were planned and some land was being used for development of road, green spaces, open spaces and other services like septic tank etc.. As per this witness, land measuring 1720.00 square meters was kept for development of facilities, i.e., bank, STD, shops etc. And 59.71% land was being used for industrial plots and rest for development activities. RW-2 Shri Satya Parkash, Patwari Halqua Nali Dharathi, proved copies of mutations No. 232, 333 and 336, Ex. RW-2/A to Ex. RW-2/C, respectively, which show that in Mauja Khadeen small parcels of lands were sold in April, May and July, 2004, but notification under Section 4 of the Act was issued in February, 2003, therefore, the above mutations are of no assistance.

17. RW-3 Shri S.P. Bansal, Assistant Engineer, HIMUDA, tendered in evidence his affidavit, Ex. RW-3/A, wherein he stated that 40% of the acquired land was utilized for development activities and 60% for industrial plots. He further deposed that at the time of acquisition of the land, it was undeveloped, uncultivable and there were nallahs. As per this witness, a portion of the acquired land was abutting the road. This witness admitted that the land was acquired for industrial purpose. The statement of this witness fortifies documentary evidence of the petitioners, i.e., Ex. PX-1 and Ex. PX-2, which show 24 industrial plots in the industrial township in village Khadeen, have been sold on 31.03.2006 and 01.04.2006. From the documentary evidence, it is clear that industrial plots from the acquired land were sold in March, April, 2006 for more than Rs.2700 per square meter and HIMUDA had to provide amenities, as the area was under development. Moreover, the Land Acquisition Collector in his award clearly mentioned that the acquired land was near the industrial area of Parwanoo, where market value of the land was sky high and the acquired land was having higher potential of market value, as it was connected to road, near to the developed area and special value of the property in the vicinity of the industrial area. The acquired land was in the vicinity of Mohal Kamli, where the market value of the land was much higher, as in the industrial area of Parwanoo, there was no land, which could be acquired to establish industry.

18. It has also come on record that 60% of the acquired land was utilized for industrial plots and rest for development activities, i.e., roads, green spaces, sewerage, electricity, water, septic tank, bank etc.. Thus, considering all these aspects, the classification of the land loses its significance, as the acquired land was to be used as a single unit, i.e., for industrial purpose.

19. 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."***

20. 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.

21. Therefore, in view of the aforesaid authoritative pronouncements of law, the learned Reference Court has not erred in awarding uniform rate for the entire land @ Rs.10,00,000/- per



bigha by ignoring the classification and nature of the land, as in the instant case also the land was acquired as the single unit for residential purpose as well as industrial purpose. No cogent and satisfactory evidence has been led by the appellants in RFA No. 478 of 2010 to show that the value of the acquired land was Rs.15,00,000/- per bigha.

22. Hence, in view of what has been discussed hereinabove, no fault can be found in the impugned award dated 30.09.2010, passed by the learned Reference Court. Therefore, the appeal filed by the appellants/State, being devoid of merits, deserves dismissal and is accordingly dismissed.

23. Similarly, the appeal filed by appellant-Nanak Chand (since diseased) is also dismissed, as the same also sans merits.

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