

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RFA No.302 of 2012

Reserved on: 12.05.2021

Decided on: 19.05.2021

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Manish Bhatia .....Appellant.

**Versus**

The State of Himachal Pradesh & another ...Respondents.

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**Coram**

**Hon'ble Mr. Justice Ajay Mohan Goel, Judge.**

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

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For the appellant : Mr. K.D. Sood, Senior Advocate,  
with Mr. Sukrit Sood, Advocate.

For the respondents : Mr. Sumesh Raj, Additional  
Advocate General, with Ms. Divya  
Sood, Deputy Advocate General.

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**Ajay Mohan Goel, Judge**

This Regular First Appeal is directed against the Award, passed by the Court of learned District Judge, Mandi, District Mandi, H.P., in Reference Petition No.4 of 2005, titled as Manish Bhatia Versus State of H.P. & another, decided on 06.12.2011, vide which learned Reference Court has held that the petitioner therein i.e. the present appellant was not entitled for any enhancement of compensation, as the market

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*Whether reporters of the local papers may be allowed to see the judgment?*

value of the land as well as non- fruit bearing trees stood rightly assessed by the respondents.

2. Brief facts necessary for the adjudication of the present appeal are as under:-

The land of the appellant situated near the road head, in village Jilhan/Jhantingeri, Tehsil Padar, District Mandi, H.P., was acquired by the respondents with the intent of developing the same as a tourist place. Notification under Section 4 of the Land Acquisition Act was issued on 05.06.1997. Land measuring 7-18-0 bighas, in village Jilhan was purchased by the appellant on 19.09.1996, for a sum of Rs.2,00,000/-. Thereafter, on 27.12.1996, he again purchased land measuring 0-16-3 bigha in the same mauja, for a sum of Rs.50,000/-.

3. Land Acquisition Collector awarded an amount of Rs.3,65,188/- for 8-14-3 bighas of the land which stood acquired, whereas as per the appellant, the market value of the land was Rs.4,40,000/- per bigha. It was further the case of the appellant that he had spent huge amount for development of the land, for which no compensation stood

awarded to him and, therefore, he was entitled for an Award of Rs.2,00,000/- on this behalf also. Feeling aggrieved, he filed the reference.

4. The Reference Petition was answered by learned District Judge, Mandi, District Mandi, H.P., by holding that the land owner was not entitled for any enhancement of compensation, as the compensation awarded to the land owner by Land Acquisition Collector was adequate.

5. The issues which were framed by learned Reference Court for adjudication in the Reference Petition were as under:-

- “1. Whether the petitioner is entitled for the enhancement of compensation as alleged? OPP.
2. Whether the petition is not maintainable in the present form? OPR.
3. Whether the petition is bad for non-joinder of necessary parties, as alleged? OPR.
4. Relief.”

6. The issues were answered by learned Reference Court as under:-

“Issue No.1	No.
Issue No.2	No.

Issue No.3 No.

Relief:- The petitioner is not entitled for enhancement in the value of the acquired land.”

7. While answering issue No.1, learned Reference Court held that to prove its case, the petitioner examined one Kashmir Singh as PW-1, who being Registration Clerk of Tehsil Padhar, proved the copies of Sale deeds dated 16.05.1997, Ext.PA to Ext.PC. Petitioner himself entered the witness box as PW-2. He admitted the purchase of acquired land vide sale deeds Ext.RA and RB, dated 19.09.1996 and 27.12.1996. He mentioned in his cross-examination that some trees were already standing on the acquired land and he also planted trees upon the land.

8. Respondents examined Ram Partap Sharma as RW-1, who deposed about market value of the acquired land. RW-2, Mohan Lal, Patwari deposed that adequate compensation stood paid to the land owner. RW-3, Ramesh Kumar had prepared average price of the land as Ext.RW3/A. RW-4, Sameer Rastogi assessed the value of non-fruit bearing trees. RW-5, K.L. Mastana deposed regarding the fact that he

visited the acquired land and found debris of one house upon the same.

9. Learned Reference Court held that Notification under Section 4 of the Land Acquisition Act was issued on 05.06.1997. The acquired land stood purchased by the petitioner for a sum of Rs.2,50,000/-, in the year 1996. Petitioner wanted to rely upon three sale deeds (Ext.PA to Ext.PC) as exemplar sale deeds, which admittedly were executed by his father on 16.05.1997 about 19 days prior to the issuance of Notification under Section 4 of the Land Acquisition Act. It also held that by virtue of Award No.1, the respondents acquired land measuring 8-14-3 bighas, belonging to the petitioner, for which Land Acquisition Collector assessed value of the same as Rs.3,55,188/-. Learned Reference Court observed that the value so assessed by Land Acquisition Collector was just value. It further held that the sale deeds relied upon by the petitioner as exemplar sale deeds did not fall within the definition of bonafide sale transactions, as the sale deeds Ext.RA and Ext.RB were the best sale instances to be taken into consideration in order to

determine market value of the land. It further held that Land Acquisition Collector rightly assessed market value of the land and awarded a sum of Rs.6,24,793/- as value of the trees, whereas the land alongwith all the rights apertinent thereto were purchased by the plaintiff for a sum of Rs.2,50,000/-. On these basis, the Reference Petition stood answered by learned Reference Court by holding that the compensation awarded by Land Acquisition Collector was adequate.

10. Learned Senior Counsel, appearing for the appellant has argued that the Award passed by learned Reference Court was not sustainable in the eyes of law, as the sale deeds relied upon by the appellant as exemplar sale deeds were discarded by learned Reference Court erroneously. He further argued that simply because the sale deeds were executed by the father of the petitioner was no valid basis for discarding the same and similarly because the same were executed 19 days prior to issuance of Notification under Section 4 of the Land Acquisition Act, was also no valid ground for discarding the same. He argued that even if other things are taken to be as they are, then also the compensation

paid to the appellant has to be enhanced in terms of the sale deeds exhibited by the appellant.

11. Opposing the plea, learned Additional Advocate General submitted that there was no infirmity with the Award passed by learned Reference Court. He argued that learned Reference Court correctly observed that as adequate compensation stood paid to the land owner, taking into consideration the fact that he had purchased the entire property for a sum of Rs.2,50,000/- only, therefore, the award called for no interference.

12. I have heard learned counsel for the parties and have also gone through the award passed by learned Reference Court as well as record of the case.

13. It is not in dispute that the acquired land was purchased by the appellant for a sum of Rs.2,50,000/- in all, vide two sale deeds, dated 19.09.1996 and 27.12.1996. It is also not in dispute that Notification under Section 4 of the Land Acquisition Act for the purpose of acquisition of the land was issued on 05.06.1997.

14. The appellant had approached learned Reference Court for enhancement of the compensation on the basis of three sale deeds, i.e. Ext.PA, dated 22.03.1997, registered on 16.05.1997, Ext.PB, dated 19.03.1997, registered on 16.05.1997 and Ext.PC, dated 19.03.1997, registered on 16.05.1997. Vide sale deed Ext.PA, 0-3-0 bigha of land, situated in Mohal Jilhan, Sub-Tehsil Padar, was sold by one Shri Jai Prakash Bhatiya to one Shri Pritam Singh, for a sale consideration of Rs.66,000/-. Similarly, vide sale deed Ext.PB, land measuring 0-3-0 bigha, situated in Muhal Jilhan, Tehsil Joginder Nagar, District Mandi, H.P. was sold by one Shri Jai Prakash Bhatia to one Shri Gulab Singh, for a sum of Rs.66,000/- and similarly, vide sale deed Ext.PC, Shri Jai Prakash Bhatia sold the land measuring 0-1-10 bigha, for a sum of Rs.33,000/-, in Muhal Jilhan, Sub-Tehsil Padar, District Mandi, H.P. to Shri Inder Singh. Thus, one biswa of land was sold by way of these three sale deeds by Shri Jai Prakash Bhatia, the vendor, who admittedly happens to be the father of the present appellant, for a sum of Rs.22,000/- in two cases and Rs.33,000/- in one case. These three sale deeds

have been discarded by learned Reference Court only on the ground that the same were executed by the father of the land owner about 19 days prior to the issuance of Notification under Section 4 of the Land Acquisition Act.

15. In the considered view of the Court, this reason was not sufficient for learned Reference Court to have had discarded said three sale deeds, until and unless it stood proved on record that the father of the present appellant was having knowledge with regard to acquisition of the land and these three sale deeds were not executed with a bonafide intent by the father of the present appellant. There are no such findings returned on record by learned Reference Court. Not only this, no evidence has been placed on record by the respondents to demonstrate that the sale deeds (Ext.PA to Ext.PC) relied upon by the present appellant were not bonafide sale deeds, but were executed by the father of the present appellant just to artificially enhance the value of the land in the vicinity as he was aware of the process of acquisition of the same. In the considered view of this Court, the factum of the value at which the acquired land was

purchased by the land owner, lost its significance, as there were subsequent sale deeds on record executed of the land in immediate vicinity before the issuance of Notification under Section 4 of the Land Acquisition Act. It is reiterated that in the absence of any material being on record to demonstrate that said sale deeds were actuated with malafide to reflect an artificial inflation of the price of the land of the area in vicinity, the same could not have been discarded, as these sale deeds being close to the date of acquisition, were the best evidence to assess the value of the land.

16. Now, the next question that arises is as to what can be termed to be a fair price of the land acquired by the respondents. In terms of Ext.PA to Ext.PC, three biawas of land were sold for a sum of Rs.66,000/-, whereas one biawa of land was sold for a sum of Rs.33,000/-. Thus, the average price of one biswa of land sold by way of these three sale deeds is between Rs.22,000/- to Rs.33,000/-. However, as the land subject matter of these three sale deeds is small as compared to the land acquired of the present appellant, in the considered

view of this Court, the fair compensation in favour of the land owner can be said to be Rs.15,000/- per biswa. ◊

17. Accordingly, this appeal is allowed, by setting aside the award passed by learned Reference Court and by ordering the enhancement of the Award amount awarded in favour of the appellant by Land Acquisition Collector, by assessing the same at the rate of Rs.15,000/- per biswa. Rest of the Award passed by Land Acquisition Collector shall remain as it is. The appeal stands disposed of, so also pending miscellaneous applications, if any.

**(Ajay Mohan Goel)**  
**Judge**

May 19, 2021  
(Rishi)