

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA.

***RFA No.65 of 1998 with Cross Objection
No.165 of 1998, RFA No.66 of 1998, RFA
No.94 of 1998, RFA No.96 of 1998 and RFA
No.98 of 1998 with C.O. No.238 of 1998.***

Reserved on:22.08.2007

Date of Decision:September 28, 2007

For title, please see over-leaf:

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge

Whether approved for reporting?¹ No

<i>For the appellant</i>	<i>]</i>	
	<i>]</i>	<i>Please, see over-leaf:</i>
<i>For the respondents</i>	<i>]</i>	

Kuldip Singh, Judge.

This judgment shall dispose of RFA No.65 of 1998 with Cross Objection No.165 of 1998, RFA No.66 of 1998, RFA No.94 of 1998, RFA No.96 of 1998 and RFA No.98 of 1998 with C.O. No.238 of 1998, which have arisen out of LAC No.4/94, LAC No.39/94, LAC No.34/94, LAC No.30/94 and LAC No.33/94 respectively decided by common award dated 1.11.1997 passed by learned District Judge, Chamba Division, Chamba.

2. The facts, in brief, are that State of Himachal Pradesh for acquiring land of the land owners for Chamera Dam reservoir in *Mohal Raj*

¹ *Whether reporters of Local Papers are allowed to see the Judgment?* Yes

Nagar Pargana Raj Nagar, Tehsil and District Chamba issued notification under Section 4 of the Land Acquisition Act, 1894 (for short 'the Act') which was published on 6.6.1992. The Land Acquisition Collector (for short 'Collector') started acquisition proceedings and announced the award on 31.7.1993. The following are the details of land, structures and compensation awarded by the Collector as shown in Para-3 of the impugned award:-

Sr.No.	Case No. and Title of petition	Area of Land and Name of structure acquired	Amount of Compensation Awarded.
1.	4/94 Jameet Singh vs. State etc.	7-5-8 Structures	Rs.2,46,120/- Rs.2,45,510/-
2.	30/94 Dharam Chand vs. State etc.	1-1-1 Structures	Rs.26,965/- Rs.33,609/-
3.	33/94 Parminder Singh Vs. NHPC etc.	Structures	Rs.1,01,464/-
4.	34/94 Chando Vs. NHPC etc.	4-10-1 Structures	Rs.1,06,471/- Rs.58,075/-
5.	39/94 Smt.Kishani Vs. NHPC	1-2-19 Structures	Rs.27,916/- Rs.58,075/-

3. The Collector awarded compensation at different rates according to the classification of the land. The land owners were aggrieved by the compensation awarded by the Collector, therefore, they filed reference petitions for enhancement of compensation. The

reference petitions being LAC No.4/94, LAC No.39/94, LAC No.34/94, LAC No.30/94 and LAC No.33/94 were decided by learned District Judge by common award and awarded the following compensation:-

Sr.No.	Case No. and Title of petition	Compensation Awarded by the Collector	Compensation Awarded by the Court.	Net amount of Enhanced Compensation.
1.	4/94 Jameet Singh vs. State etc.	Land: Rs.2,46,120 Structures : Rs.2,45,510	Rs.3,56,874 Rs.3,68,265	Rs.1,10,754/- Rs.1,22,755/-
2.	30/94 Dharam Chand vs. State etc.	Land: Rs.26,965 Structures: Rs.33,609	Rs.39,099 Rs.50,413	Rs.12,134/- Rs.16,804/-
3.	33/94 Parminder Singh Vs. NHPC etc.	Land: - Structures: Rs.1,01,464	- Rs.1,52,196	- Rs.50,732/-
4.	34/94 Chando Vs. NHPC etc.	Land: Rs.1,06,471 Structures: Rs.58,075	Rs.1,54,383 Rs.87,113	Rs.47,912/- Rs.29,038/-
5.	39/94 Smt.Kishani Vs. NHPC	Land: Rs.27,916 Structures: Rs.58,075	Rs.40,478 Rs.87,113	Rs.12,562/- Rs.29,038/-

The Chamera Hydro Electric Project has filed the above appeals against the impugned award. The land owners have filed Cross Objection No.165 of 1998 and Cross Objection No.238 of 1998 in RFA No.65 of 1998 and RFA 98 of 1998 respectively for enhancement of compensation.

4. I have heard the learned counsel for the appellant, learned Advocate General representing the State and learned counsel representing the land owners in the above appeals and gone through the record. The learned counsel appearing for the Chamera Hydro Electric

Project has submitted that the learned District Judge has misconstrued and misinterpreted the material on record and has awarded excess compensation for the land as well as structures. The land owners have miserably failed to prove their case as projected by them before the learned District Judge but without cogent and worth believing evidence on record the learned District Judge has enhanced the compensation. The learned counsel representing the land owners have supported the impugned award and submitted that less compensation has been awarded by the learned District Judge to the land owners and for that reason the land owners in RFAs No.65 of 1998 and 98 of 1998 have filed the Cross Objections No.165 of 1998 and 238 of 1998. They have also submitted that on the basis of material on record in RFA Nos.65 of 1998 and 98 of 1998 the land owners in the Cross Objections are entitled to further enhancement of the compensation as claimed by them.

5. PW-1 Jameet Singh has stated that his land, along with house, in village Thari, Pargana Raj Nagar, was acquired for dam. The lands of Chando, Dharam Chand, Kishani and Parminder Singh were also acquired for the dam. Their houses were also acquired. The acquired land was *Kulahu Awal, Bagicha Barani Awal, Bagicha Kulahu Awal*. The land owners have been given less compensation for the land and the structures. The structures were assessed on the basis of 1987 Schedule of rates. He is entitled to Rs.1 lac per Bigha compensation.

6. PW-2 Ashok, Registration Clerk, has proved sale deed dated 15.1.1991 Ext.PA and sale deed dated 4.2.1988 Ext.PB. PW-3 Hardyal has stated that in village Thari he sold two Biswas land for Rs.10,000/- to Chapar vide sale deed Ext.PB. PW-4 Tilak Singh has stated that he has

purchased three Biswas land in village Thari from Sahib Singh for Rs.12,000/- vide sale deed Ext.PA. PW-5 Chuni Lal, Senior Assistant, PWD has stated that he has brought the summoned record. In 1991 rates were more than the rates of the year 1987. PW-6 Rajinder Kumar Chona, Assistant Engineer (Retd.) has stated that he remained posted as Assistant Surveyor of Works in Chamera Project. He has proved Ext.PW-6/A depreciated value of house of Smt.Kishani. He has also produced Ext.D-1, Ext.D-2 and Ext.D-3 rates of timber fixed by Forest Corporation. No evidence was led by the Project authorities and the State in the reference Court as per statements given by their respective counsel. However, copies of sale deeds Ext.R-1 and Ext.R-2 were tendered by counsel representing the Project in the Court below. The land owners tendered in evidence Ext.PX and Ext.PY copies of revenue record pertaining to sale deeds which have been relied by them. The learned counsel for the Project tendered in evidence Ext.DX and Ext.DY copies of record pertaining to sale deeds relied by the Project.

7. The sale deed Ext.PB is dated 4.2.1988 whereby 2 Biswas land was sold for Rs.10,000/-. PW-3 Hardyal, vendor of sale deed Ext.PB, has deposed that he has sold 2 Biswas land to Chapar for Rs.10,000/-. There is no reason to disbelieve the statement of PW-3 Hardyal coupled with the contents of sale deed Ext.PB. This sale took place in the year 1988 and the notification for acquiring the land was published on 6.6.1992. The land was acquired in Mohal Raj Nagar and the land sold by sale deed Ext.PB is also situated in Mohal Raj Nagar. Therefore, the sale deed Ext.PB can be safely relied for assessing the market value of the acquired land. There are two more sale deeds

Ext.R-1 and Ext.R-2 on record. The vendors and vendees of these sale deeds have not been examined. There is no evidence regarding comparability of the acquired land and the land covered vide sale deeds Ext.R-1 and Ext.R-2. Moreover, both these sale deeds have been executed after publication of notification under Section 4. Therefore, sale deeds Ext.R-1 and Ext.R-2 cannot be relied for assessing the market value of the acquired land.

8. The sale deed Ext.PA dated 15.1.1991 is of 3 Biswas of land which was sold for Rs.12,000/- by Sahib Singh in favour of Tilak Singh. PW-4 Tilak Singh, vendee of sale deed Ext.PA has stated that he has purchased the land vide sale deed Ext.PA for Rs.12,000/- for construction of a house. He has stated nothing about the comparability of acquired land and land covered by sale deed Ext.PA. The learned District Judge has rightly not relied sale deed Ext.PA for assessing the market value of the acquired land.

9. It has been submitted that sale deed Ext.PB otherwise cannot be relied for assessing the market value of the acquired land for the reasons that it is solitary transaction and of small area in comparison to large area acquired. There is no other reliable sale deed on record to assess the market value of the acquired land. In these circumstances, the market value of the acquired land can be assessed on the basis of sale deed Ext.PB once it is found to be genuine sale transaction. The objection of the acquiring agency that the sale deed Ext.PB being solitary transaction and is of small area and, therefore, it cannot be taken into consideration for assessing the market value of the area has no force. The learned District Judge after relying sale deed Ext.PB for assessing

the market value of the acquired land has applied 60% deduction for arriving at correct market value of the acquired land keeping in view the fact that sale deed Ext.PB is of small area and only genuine sale transaction which has been proved on record. On the basis of sale deed Ext.PB and after applying 60% deduction the learned District Judge has correctly assessed the market value of *Barani Awal* acquired land at Rs.40,000/- per Bigha as against Rs.27,590/- per Bigha assessed by Collector of *Barani Awal* land. The District Judge has rightly come to the conclusion that since market value of *Barani Awal* land assessed by the Collector has been increased by 45% in the impugned award, therefore, market value of other kinds of acquired land would also increase by 45% proportionately as assessed by Collector. The land owners in cross objections No.165 of 1998 and 238 of 1998 have failed to make out any case on the basis of material on record for enhancement of compensation of acquired land over and above what has been assessed by the learned District Judge.

10. It has come on record that structures on the acquired land were assessed on the basis of 1987 Schedule of rates whereas notification under Section 4 for acquiring the land and structures was published on 6.6.1992. No premium has been allowed while assessing the market value of the structures on the basis of 1987 Schedule of rates even though the structures were acquired in the year 1992. It is common knowledge that cost of construction is increasing day by day and the learned District Judge has rightly enhanced the compensation by 50% of the structures as the structures were assessed on the 1987 Schedule of rates but were acquired in the year 1992. The acquiring

agency has failed to make out any case that 50% increase allowed by the learned District Judge for the structures is unreasonable. The owners of the structures have not placed any worth believing material on record to show the market value of the structures in the year 1992, therefore, cross objectors in RFA No.65 of 1998 and RFA No.98 of 1998 are not entitled to any enhancement of compensation with respect to their structures which were acquired under notification dated 6.6.1992. In RFA No.65 of 1998 and RFA No.98 of 1998 no case has been made out for enhancement of compensation for trees, standing crops. The learned District Judge has rightly assessed the market value of the acquired land and structures.

11. No other point was urged.

12. The result of the above discussion is that all the appeals being RFA No.65 of 1998 with Cross Objection No.165 of 1998, RFA No.66 of 1998, RFA No.94 of 1998, RFA No.96 of 1998 and RFA No.98 of 1998 with C.O. No.238 of 1998 are dismissed with no order as to costs.

September 28, 2007
(soni)

(Kuldip Singh), J.

1. RFA No.65 of 1998 with Cross Objection No.165 of 1998:

Chamera Hydro Electric Project

...Appellant.

Versus

Jameet Singh & Ors.

..Respondents.

For the appellant:

**Mr.Rajnish Maniktala vice Mr.K.D.Shreedhar,
Advocate.**

For the respondents:

**Mr.Anand Sharma with Mr.Jagan Nath
Advocates, for respondent No.1.**

**Mr.M.S.Chandel, Advocate General with
Mr.M.L.Chauhan, Addl.A.G., for respondents
No.2 and 3.**

2. RFA No.66 of 1998:

Chamera Hydro Electric Project.

...Appellant.

Versus

Kishani & Ors.

..Respondents.

For the appellant:

**Mr.Rajnish Maniktala vice Mr.K.D.Shreedhar,
Advocate.**

For the respondents:

**Mr.Kulbhushan Khajuria, Advocate, for
respondent No.1.**

**Mr.M.S.Chandel, Advocate General with
Mr.M.L.Chauhan, Addl.A.G., for respondents
No.2 and 3.**

3. *RFA No.94 of 1998:*

Chamera Hydro Electric Project

...Appellant.

Versus

Chando & Ors.

...Respondents.

For the appellant:

**Mr.Rajnish Maniktala vice Mr.K.D.Shreedhar,
Advocate.**

For the respondents:

**Mr.Kulbhushan Khajuria, Advocate, for
respondent No.1.**

**Mr.M.S.Chandel, Advocate General with
Mr.M.L.Chauhan, Addl.A.G., for respondents
No.2 and 3.**

4. **RFA No.96 of 1998:**

Chamera Hydro Electric Project

...Appellant.

Versus

Dharam Chand & Ors.

...Respondents.

For the appellant: Mr.Rajnish Maniktala vice Mr.K.D.Shreedhar,
Advocate.

For the respondents: Mr.Anand Sharma and Mr.Jagan Nath,
Advocates, for respondent No.1.

Mr.M.S.Chandel, Advocate General with
Mr.M.L.Chauhan, Addl.A.G., for respondents
No.2 and 3.

5. **RFA No.98 of 1998 with Cross Objection No.238 of 1998:**

Chamera Hydro Electric Project

...Appellant.

Versus

Parminder Singh & Ors.

...Respondents.

For the appellant: Mr.Rajnish Maniktala vice Mr.K.D.Shreedhar,
Advocate.

For the respondents: Mr. Anand Sharma and Mr.Jagan Nath,
Advocates for respondent No.1.

Mr.M.S.Chandel, Advocate General with
Mr.M.L.Chauhan, Addl.A.G., for respondents
No.2 and 3.
