

**HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**

RFA No.: 9 of 1999

Alongwith

- RFA No.: 10 of 1999,
- RFA No.: 75 of 1999
- RFA No.: 108 of 2000
- RFA No.: 109 of 2000
- RFA No.: 21 of 1999
- RFA No.: 17 of 1999
- RFA No.: 19 of 1999
- RFA No.: 20 of 1999
- RFA No.: 29 of 1999
- RFA No.: 71 of 1999
- RFA No.: 110 of 2000
- RFA No.: 111 of 2000
- RFA No.: 142 of 2000
- RFA No.: 184 of 2000
- RFA No.: 298 of 2000
- RFA No.: 134 of 1999
- RFA No.: 1 of 1999
- RFA No.: 135 of 1999
- RFA No.: 159 of 1999
- RFA No.: 219 of 1999
- RFA No.: 69 of 1999
- RFA No.: 70 of 1999
- RFA No.: 72 of 1999
- RFA No.: 74 of 1999
- RFA No.: 76 of 1999
- RFA No.: 8 of 1999
- RFA No.: 107 of 2000
- RFA No.: 112 of 2000
- RFA No.: 113 of 2000
- RFA No.: 132 of 2000
- RFA No.: 145 of 2000
- RFA No.: 180 of 2000
- RFA No.: 183 of 2000
- RFA No.: 215 of 2000
- RFA No.: 217 of 2000
- RFA No.: 291 of 2000
- RFA No.: 299 of 2000
- RFA No.: 62 of 2000

Reserved on: 28.7.2009

Decided on: 31.7.2009

**RFA No.9 of 1999**

Krishan Murari ...Appellant.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellant: Mr. N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

**RFA No.10 of 1999**

Liaq Ram & others

...Appellants.

Versus

Land Acquisition Collector & another

...Respondents.

For the appellants: Mr. N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.75 of 1999**

Kanauria Ram

...Appellant.

Versus

Land Acquisition Collector & another

...Respondents.

For the appellant: Mr. N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate Generla,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.108 of 2000**

Land Acquisition Collector & another

...Appellants.

Versus

Kanauria Ram

...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondent: Mr.N.K. Thakur, Advocate.

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**RFA No.109 of 2000**

Land Acquisition Collector & another

...Appellants.

Versus

Liaq Ram & others

...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondents: Mr.N.K. Thakur, Advocate.

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**RFA No.21 of 1999**

Dharam Dev & Another ...Appellants.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellants: Mr.Bhupender Gupta, Senior Advocate, with Mr.Neeraj Gupta, Advocate.

For the respondents: Mr.R.K. Bawa, Advocate Generla, with Ms.Shubh Mahajan, Deputy Advocate General and Mr.J.S. Guleria, Assistant Advocate General.

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**RFA No.17 of 1999**

Om Parkash & others ...Appellants.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellants: Mr.Bhupender Gupta, Senior Advocate, with Mr.Neeraj Gupta, Advocate.

For the respondents: Mr.R.K. Bawa, Advocate Generla, with Ms.Shubh Mahajan, Deputy Advocate General and Mr.J.S. Guleria, Assistant Advocate General.

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**RFA No.19 of 1999**

Om Parkash ...Appellant.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellant: Mr.Bhupender Gupta, Senior Advocate, with Mr.Neeraj Gupta, Advocate.

For the respondents: Mr.R.K. Bawa, Advocate Generla, with Ms.Shubh Mahajan, Deputy Advocate General and Mr.J.S. Guleria, Assistant Advocate General.

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**RFA No.20 of 1999**

Jai Singh & others ...Appellants.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellants: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.29 of 1999**

Tara Devi ...Appellant.  
Versus  
Land Acquisition Collector & Another ...Respondents.  
For the appellant: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.  
For the respondents  
No.1 to 3: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For respondent No.4: Mr. Romesh Verma, Advocate.

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**RFA No.71 of 1999**

Kedar Singh ...Appellant.  
Versus  
Land Acquisition Collector & others ...Respondents.  
For the appellant: Mr.N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.110 of 2000**

Land Acquisition Collector & another ...Appellants.  
Versus  
Dharam Dev ...Respondent.  
For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondent: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

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**RFA No.111 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Tara Devi & Another ...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

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**RFA No.142 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Kedar Singh ...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondent: Mr.N.K. Thakur, Advocate.

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**RFA No.184 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Jai Singh & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondent: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

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**RFA No.298 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Om Parkash & others

...Respondent.

For the appellants:

Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents:

Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

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**RFA No.134 of 1999**

Kewal Ram

...Appellant.

Versus

Land Acquisition Collector & another

...Respondents.

For the appellant:

Mr.Ramakant Sharma, Advocate.

For the respondents:

Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.1 of 1999**

Krishan Dutt & another

...Appellants.

Versus

Land Acquisition Collector & others

...Respondents.

For the appellants:

Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

For the respondents:

Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.135 of 1999**

Jagdish Chander & others

...Appellants.

Versus

Land Acquisition Collector & others

...Respondents.

For the appellants:

Mr.Ramakant Sharma, Advocate.

For the respondents:

Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

**RFA No.159 of 1999**

Joginder Singh & others ...Appellants.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellants: Mr.Ramakant Sharma, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.219 of 1999**

Land Acquisition Collector & another ...Appellants.

Versus

Manoj Kumar & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondent: Mr.Ramakant Sharma, Advocate.

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**RFA No.69 of 1999**

Pankaj Kumar ...Appellant.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellant: Mr.Ramakant Sharma, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.70 of 1999**

Inder Singh & others ...Appellants.

Versus

Land Acquisition Collector & others ...Respondents.

For the appellants: Mr.Ramakant Sharma, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.72 of 1999**

Ghanu ...Appellant.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellant: Mr.Ramakant Sharma, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.74 of 1999**

Anand Kumar ...Appellant.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellant: Mr.N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.76 of 1999**

Davinder Singh & others ...Appellants.

Versus

Land Acquisition Collector & another ...Respondents.

For the appellants: Mr.N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.8 of 1999**

Rajinder Kumar & Another ...Appellants.

Versus

Land Acquisition Collector & others ...Respondents.

For the appellants: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.107 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Balia ...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondent: Mr.Praneet Gupta, Advocate.

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**RFA No.112 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Rajinder Kumar & Another ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: Mr.Bhupender Gupta, Senior  
Advocate, with Mr.Neeraj Gupta,  
Advocate.

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**RFA No.113 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Joginder Singh & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: None.

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**RFA No.132 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Jagdish Chander & another ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: Mr.Ramakant Sharma, Advocate.

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**RFA No.145 of 2000**

Gulab Singh & others ...Appellants.

Versus

Land Acquisition Collector and others ...Respondents.

For the appellants: Mr.N.K. Thakur, Advocate.  
For the respondents: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

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**RFA No.180 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Krishan Dutt & another ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondents: Mr.Neeraj Gupta, Advocate.

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**RFA No.183 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Sohan Singh & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondents: Mr.N.K. Thakur, Advocate.

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**RFA No.215 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Pankaj Kumar ...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.  
For the respondent: Mr.Ramakant Sharma, Advocate.

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**RFA No.217 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Devinder Singh & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: None.

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**RFA No.291 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Om Dutt & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: Mr.Ramakant Sharma, Advocate.

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**RFA No.299 of 2000**

Land Acquisition Collector & others ...Appellants.

Versus

Partap Singh & others ...Respondents.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondents: None.

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**RFA No.62 of 2000**

Land Acquisition Collector & another ...Appellants.

Versus

Ram Kali ...Respondent.

For the appellants: Mr.R.K. Bawa, Advocate General,  
with Ms.Shubh Mahajan, Deputy  
Advocate General and Mr.J.S.  
Guleria, Assistant Advocate  
General.

For the respondent: Mr.Ramakant Sharma, Advocate.

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*Whether approved for reporting? No.*

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*Coram:*

**The Hon'ble Mr.Justice V.K. Ahuja, Judge.**

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<sup>1</sup>.Whether reporters of Local papers may be allowed to see the judgment? Yes.

**V.K. Ahuja, J:**

This judgment shall dispose of all the aforesaid regular first appeals filed by the appellants under Section 54 of the Land Acquisition Act against the awards, dated 25.8.1998 and 7.9.1998, passed by the learned District Judge, Solan, awarding compensation in favour of the appellants. Feeling aggrieved by the awards passed by the learned District Judge, the appellants have filed the present appeals for modifying the same and to further enhance the amount of compensation awarded by the learned trial Court. The appeals have also been preferred by the State of H.P. against the award passed by the learned trial Court on the ground that the learned trial Court has wrongly awarded the compensation of Rs.48,000/-, per bigha, on flat rate for all categories of land, without appreciating the probable use of the land and its potential value. The other ground on which the award passed by the learned trial Court has been challenged is in regard to the non-granting of award of interest at the rate of 9% from the date of possession.

Brief facts of the case are that the land of the appellants was acquired by the State of Himachal for the construction of a road known as Solan-Jaunazi-Dharja road. The road passes through the lands of 10 villages, namely, Sheeley, Sheel, Shamlog, Mashihar, Bhajon, Fagon, Layan Kotla, Nehar, Bagur and Ser Banera. The road was constructed by the State of Himachal Pradesh without completing the acquisition proceedings. Some of the land owners filed writ petitions in this Court and a direction

was issued by this Court to the State to complete the acquisition proceedings and pay full and final compensation to all the right holders on or before 31.8.1989.

The requisite notification under Section 4 of the Land Acquisition Act was issued on 25.2.1989. It was duly published in H.P. Rajpatra on 15.4.1989 and was published in daily newspaper on 7.5.1989. Notification under Section 6 of the Act was issued on 11.11.1989.

The Collector entered into the reference and passed the award. He assessed the rate of land for *kuhal* category at Rs.10,745/-, per bigha, and granted the lowest rate of Rs.575/- for Ghasni, Toda, Gair Mumkin etc. categories of lands.

The petitioners being aggrieved by the award passed by the Land Acquisition Collector filed reference petitions under Section 18 of the Act before the Collector for making a reference to the District Judge for determination of the market value of the lands so acquired. The appellants had claimed market value of the land at Rs.2.00 lacs per bigha. They further alleged that adequate compensation for the trees had not been awarded. The learned trial Court, on conclusion, disposed of the reference petitions and accordingly granted compensation to the land owners at the rate of Rs.48,000/- per bigha. The appellants were also held entitled to compulsory acquisition charges, additional compulsory acquisition charges, interest etc. as provided under the law.

The present appeals have been filed by the appellants for enhancement of the compensation and they

have prayed that the compensation be enhanced further to the tune of Rs.49,600/- over and above the amount awarded by the learned trial Court, besides the statutory benefits as granted under the provisions of the Act.

I have heard the learned counsel for the appellants and the learned Assistant Advocate General for the respondents/State and have gone through the record of the case.

During the course of arguments, the learned counsel for the appellants had submitted that in an earlier appeal preferred before this Court by some of the residents of the village against the acquisition of the land for the same road and after considering the facts of the case, this Court had upheld that the market value of the land assessed as Rs.45,000/- per bigha was the correct market value as assessed by the learned District Judge and it did not call for any further enhancement. It is, therefore, clear that the rate of Rs.45,000/-, per bigha, was accordingly held to be the just value of the land at the time of acquisition.

It was further submitted by the learned counsel for the appellants that the compensation, as has been awarded in the case already decided by this Court alongwith consequential benefits should be granted to the present appellants. It was also submitted by the learned counsel for the appellants that though the market value was assessed at Rs.48,000/- by the learned District Judge, but since in the referred case, as shall be discussed below, the land owners had filed appeals before this Court and the value of the land was held to be as

Rs.45,000/-, per bigha, as against Rs.48,000/-, per bigha, granted by the learned trial Court in this case, it was submitted by the learned counsel for the appellants that they may be granted the same value as has been granted in the connected case since the findings were given by this Court for the same land acquired vide same notification. However, it was submitted that in that case, the learned trial Court had granted interest at the rate of 9% from the date of possession, which findings were upheld by this Court and, therefore, the appellants, in the present case cannot be treated differently and they should also be granted the interest from the date of possession and other consequential benefits, as awarded in the referred case, which findings were affirmed by this Court. There is substance in the plea raised by the learned counsel for the appellants.

The said judgment was passed in RFA No.134 of 1993, titled LAC and another versus Rajinder Kumar, decided on 10.11.2005 by a learned Single Judge of this Court. A perusal of the same shows that in that case also the land had been acquired for the construction of Solan-Jaunaji-Dharja Road, vide notification dated 30.9.1989 issued under Section 4 of the Act. The judgment passed by learned Single Judge is binding on this Court and has to be followed. Moreover, the judgments passed by a Court in reference petitions filed under Section 18 of the Act or on an appeal are binding and are relevant and are to be followed in other cases in which the land was acquired vide same notification issued by the State Government, provided

the lands were in same village or of same quality. A perusal of the award dated 7.9.1998, in some of the cases, shows that the land was situated in villages Mashiwar, Bhajon and Fagon. A perusal of the award, dated 25.8.1998, passed by the learned trial Court in some of the cases, shows that the lands were situated in Villages Layan Kotla, Ser Banera and Kotla. This reference has been made to show that while granting compensation to all the petitioners in these cases, the learned District Judge has not come to any conclusion that the land was different in these villages and has accordingly granted a flat rate for the land acquired in all the 10 villages and, therefore, the petitioners are entitled to the same compensation.

The said judgment is, therefore, relevant for the just determination of the market value at the time of the acquisition of the land and has to be followed. No reasons have been assigned as to why the said judgment passed by a learned Single Judge of this Court should not be followed or is not applicable to the facts of the present case. Following the said judgment passed by the learned Single Judge of this Court in the above referred case, I am of the opinion that the appellants are entitled to the rate as granted by the Court at Rs.45,000/- per bigha, along with other consequential benefits, including interest from the date of possession.

A plea was raised by the learned Assistant Advocate General for the State during the course of arguments that the interest should be granted not from the date of possession i.e. 25.2.1969, but from the date of



notification under Section 4 of the Act which was issued on 25.2.1989. It was further submitted that as per the decision of the Apex Court, interest cannot be awarded before the date of issuance of the notification under Section 4 of the Act. Thus, it was submitted by the learned Assistant Advocate General for the State that the said part of the order passed by the learned trial Court deserves to be modified. This was the only point raised by the learned Assistant Advocate General for the State during the course of the arguments.

On the above point, the submissions made by the learned counsel for the appellants were that the appellants were entitled to the interest from the date of possession. The reason being that the judgment of the Apex Court was referred to by this Court in the above mentioned regular first appeal and the learned Single Judge had clearly distinguished the judgment of the Apex Court and after referring to the judgment in detail, it had held that the appellants are entitled to the interest from the date of possession.

This plea was considered by the learned Single Judge and the case law cited by learned counsel for both the parties was also considered. I deem it necessary to reproduce below the submissions made in support of this plea and the reasoning given by the learned Single Judge in the above mentioned regular first appeal:

*"The learned counsel appearing for the appellants submitted before me that the learned District Judge had erred in law in granting interest from 18.12.1968, the date on which the possession of the acquired land was taken by the Government (even prior to the date*

of the issuance of the notification under Section 4 of the Land Acquisition Act). Reliance was placed on the law laid down by the Hon'ble Supreme Court in the case **Siddappa Vasappa Kuri and another v. Special Land Acquisition Officer and another**, (2002) 1 SCC 142. On the other hand the learned counsel appearing for the claimants-respondents submitted before me that the Hon'ble Supreme Court in the case **Ishwar Dutt vs. Land Acquisition Collector & Anr.**, JT 2005 (6) SC 540 had set aside the order of this Court in RFA No.104 of 1993 vide which the order passed by the District Judge with regard to the payment of interest etc. had been set aside by this Court and the order passed by the District Judge was upheld by the Hon'ble Supreme Court.

After hearing learned counsel and perusing the record, in my opinion, there is no force in the submission made before me by the learned counsel for the appellants. I have gone through the judgment of the Hon'ble Supreme Court in JT 2005 (6) SC 540 (supra). The present case is fully covered by the law laid down by the Hon'ble Supreme Court in Ishwar Dutt's case (supra) vide which the order passed by a Division Bench of this Court with regard to payment of interest etc. was set aside by the Hon'ble Supreme Court and the order passed by the learned District Judge, regarding the date from which the interest was payable, was upheld by the Hon'ble Supreme Court. In view of the law laid down by the Hon'ble Supreme Court in Ishwar Dutt's case (supra), in my opinion, this Court cannot take a different view, since the case before the Hon'ble Supreme Court and the present case had arisen out of the same notification vide which the land was acquired by the State Government for the construction of Solan-Jaunaji-Dharja Road. The learned District Judge in the award under appeals had passed a similar order as was passed by the learned District Judge in his award dated 1.9.1992, copy Ex.PW1/A and the same was upheld by the Hon'ble Supreme Court in Ishwar Dutt's case (supra). In this view of the matter, in my opinion, no fault could be found with the award given by the learned District Judge, while giving the award under appeals.

So far as the case (2002) 1 SCC 142 (Supra) relied upon by the learned counsel for the appellants is concerned, in my opinion, the appellants cannot take any benefit of the same in the present appeals, considering that the present appeals and Ishwar Dutt's case (supra) had arisen out of the same

*notification of the State Government under Section 4 of the Land Acquisition Act and the present appeals are covered by the law laid down by the Hon'ble Supreme Court in JT 2005(6) SC 540 (supra)."*

I need not give any other reasoning for holding that there is no merit in the plea raised by the learned Assistant Advocate General for the State in view of the reasoning given by the learned Single Judge in the earlier judgment. The said judgment and the other judgments of the Apex Court were clearly considered by the learned Single Judge and it was finally held that the appellants cannot take any benefit of the case in Siddappa Vasappa Kuri (supra) since the present appeals had arisen out of the same notification of the State Government under Section 4 of the Land Acquisition Act and the present appeals are covered by the law laid down by the Supreme Court in **Ishwar Dutt versus Land Acquisition Collector and Another, JT 2005(6) SC 540**. Once this question has been decided by this Court that the appellants were entitled to the interest from the date of possession after referring to the various decisions of the Apex Court and the said judgment, to my mind, has attained finality since no appeal was filed by the State, therefore, the same is binding upon this Court. The said judgment was passed by a learned Single Judge of this Court and according to the submissions made at the Bar, there is nothing to show that any appeal was preferred by the State Government against the said judgment or the appeal is pending before the Apex Court or some stay order has been granted against the said

judgment. Once the said judgment has been passed by the learned Single Judge of this Court and the same has attained finality since no appeal was preferred against the said judgment, the same has to be followed by this Court and no contrary view can be taken by this Court. I am fortified by the view that since no review petition was also filed by the State Government against the said judgment, the said judgment has to be followed by this Court.

The findings given by the learned Single Judge apply to the present facts also since the land was acquired vide the same notification. I accordingly hold that the appeals filed by the appellants are partly liable to be allowed and they are entitled to the compensation, interest etc., as detailed above. Similarly, the appeals filed by the State of H.P. are also partly allowed vide which the market value has been reduced from Rs.48,000/-, as allowed by the learned trial Court, to Rs.45,000/-, but alongwith other consequential benefits as detailed above. The Collector shall make the payment to all the appellants accordingly after making fresh calculations in view of the award passed by the learned District Judge in Reference Petition No.5-S/4 of 1992, dated 5.1.1993, and upheld by this Court in RFAs No.134 and 152 of 1993, on 10.11.2005. However, the parties are left to bear their own costs.

A certified copy of the judgment be placed on the record of other connected appeals.

**July 31, 2009.**  
(TILAK)

**(V.K. Ahuja),**  
**Judge.**

