

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

RFA No. 584 of 2011.

Reserved on : 18th December, 2018.

Decided on : 31st December, 2018.

State of H.P. & another **...Appellant.**

Versus

Smt. Krishna Devi & others **....Respondents.**

Coram:

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting?¹ Yes.

For the Appellants: Mr. Hemant Vaid and Mr. Desh Raj Thakur, Addl. Advocate Generals with Mr. Y.S. Thakur and Mr. Vikrant Chandel, Dy. A.Gs.

For the Respondents: Mr. Vijay Sharma, Advocate

Sureshwar Thakur, Judge.

The State of Himachal Pradesh, is, aggrieved by the award pronounced by the learned Reference Court, upon, reference petition No. 14-FTC/4 of 2009,

¹ Whether reporters of the local papers may be allowed to see the judgment?

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whereunder, it determined, the, market value of the acquired lands, in a sum of Rs.30,000/- per biswa, and, applied the afore market value, to, all the categories of lands, as stood brought to acquisition, and, added thereon, all, the requisite statutory benefits.

2. The short submission addressed before this Court by the learned Additional Advocate General, for impugning, the, apt award is centered, (i) upon, an inapt reliance being placed by the learned Reference Court, upon, Ex.PW1/B, exhibit whereof is a certified copy of an award pronounced by the learned Additional District Judge, Solan, upon, petition No.34-S/4 of 2009, (ii) whereunder, the market value, vis-a-vis, the lands located in village Jabal Jamrot, stand, computed in a sum of Rs.6 lacs per bigha, on the ground (a) qua the afore verdict being not attracted, vis-a-vis, the acquired lands located in, a, contradistinct therefrom village, inasmuch as Village Sujni; (b) also when no evidence stood adduced, vis-a-vis, proximity of lands located in village

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Suni, vis-a-vis, the lands located in village Jabal Jamrot. Contrarily, the learned Additional Advocate General has contended with much vigour before this Court, (c) that the one year average market value of the lands, as, assessed by the learned Collector concerned, rather comprising the justifiable parameter, for, on its anvil, hence determining the just and fair compensation, vis-a-vis, the acquired lands. However, the afore contention, cannot be accepted, (d) given the existence, on the file of the learned reference Court, a site plan, disclosing the proximity of village Sujni, whereat the acquired lands located, vis-a-vis, village Jabal Jamrot, (e) AND, when with respect, to, lands located in the, latter village, Ex.PW1/B, stood, pronounced, and, also stood relied upon by the Reference Court, in its, making the impugned award, renders, hence, reliance thereon, to be well founded.

3. A bare perusal of the afore site plan, brought on record, by an official of the Land Acquisition Collector concerned, through makes (a) disclosure of some villages

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being rather located, intervening, the location of village Sujni, and, village Jabal Jamrot. However, even if, there is occurrence of some villages, intervening, the location of village Sujni, and, of village Jabal Jamrot, (b) yet the award borne in Ex.PW1/B, pronounced with respect to the lands located in village Jabal Jamrot, would per se not hence be rendered either irrelevant or unreadable, for, hence on its anvil, making computation of the market value of the lands, located in village Sujni, (c) unless evidence stood adduced, that, in proximity, to, the issuance of notification under Section 4 of the Land Acquisition Act, notification whereof stood issued on 11.8.2007, sale deeds being executed, vis-a-vis, lands located in village Sujni, and, qua villages located in proximity thereto. However, the aforesaid evidence is grossly amiss, (d) thereupon, when under the apposite statutory notification, hence, lands located in village Sujni, as well as, those located, in village Jabal Jamrot, were acquired for a common public purpose, (e)

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thereupon, when there is no further evidence, that, the lands located in village Sujni, did not, carry a market value, at par with the lands located, in village Jabal Jamrol, hence, therefrom an imminent conclusion, is, fostered qua the reliance placed upon Ex.PW1/B by the learned Reference Court, for, on its anvil, its, adjudging the market value of the acquired lands, not, suffering from any gross infirmity.

4. Even otherwise, reiteratedly, with no sale exemplars, being placed on record by the appellant, appertaining to the lands located in village Sujni, and, nor also the afore purported sale exemplars hence satiating the twin parameters; (a) its/theirs purported execution occurring in proximity tot he issuance of the apposite statutory notification; (b) or lands borne therein holding proximity in location angle, vis-a-vis, the acquired lands, thereupon, its appears that the reliance placed, upon, Ex.PW1/B by the learned Reference Court, for, thereupon its adjudging the market value of the acquired lands,

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rather not suffering from any gross fallibility or inherent fallacy.

5. A catena of judicial verdicts, has settled, the legal proposition qua upon the lands standing acquired for a common public purpose, inasmuch as for construction of road, thereupon, the contradistinct value(s) borne by the contradistinct categories of lands, rather paling into insignificance, given, upon, completion of the public purpose, the relevant categorization rather standing eclipsed.

6. For the foregoing reasons, there is no merit in the instant appeal, and, it is dismissed accordingly. In sequel, the impugned award is affirmed and maintained. All pending applications also stand disposed of. No order as to costs. Records be sent back forthwith.

31st December, 2018.
(jai)

(Sureshwar Thakur)
Judge.