

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**RFA No. 173 of 2018 alongwith RFA
Nos. 205, 209 of 2017, 133 of 2018
with Cross Objection No. 33 of 2019
in RFA No. 133 of 2018**

Date of decision: 28.2.2023

1. RFA No. 173 of 2018

The Renuka Ji Dam Project & Another.	...Appellants.
Versus	
Dinesh Kumar & others.	...Respondents.

2. RFA No. 205 of 2017

The Renuka Ji Dam Project & Another.	...Appellants.
Versus	
Virender Singh & others.	...Respondents

3. RFA No. 209 of 2017

The Renuka Ji Dam Project & Another.	...Appellants.
Versus	
Anand Singh & others.	...Respondents

4. RFA No. 133 of 2018

The Renuka Ji Dam Project & Another.	...Appellants.
Versus	
Prem Pal Singh (since deceased) through LRs & others.	...Respondents

Coram

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting?¹ Yes

For the Appellants. Mr.Vivek Negi, Advocate.

***For the Respondents: Mr.Harinder Singh Rawat, Additional
Advocate General, for respondents-State.***

***Mr.Rupinder Singh Thakur, Advocate, for
private respondents in RFA No. 133 of
2018/Cross-Objectors.***

***Mr.Anirudh Sharma, Advocate, for private
respondent(s) in RFA Nos. 173 of 2019 and
209 of 2017.***

***None for private respondent in RFA No. 205
of 2017.***

Whether the reporters of the local papers may be allowed to see the Judgment? Yes

Vivek Singh Thakur, Judge (Oral)

These appeals alongwith Cross-Objection, for appreciation of common questions of facts and law, are being decided by this common judgment.

2. Admitted facts of the case are that Project proponent had acquired lands in various villages in District Sirmour for construction of Renukaji Dam and its submerge area including land belonging to respective land owners situated in village Lana-Machher.

3. Land involved in present case was acquired by issuing Section 4 notification under Land Acquisition Act dated 1.8.2009, which was lastly published on 1.9.2009. After completing the due process Award No. 651, under Section 11 of Land Acquisition Act, was announced on 21.8.2012. In the said Award, Land Acquisition Collector had determined the rates of land on the basis of classification as under:-

<i>Sr. No.</i>	<i>Classification of Land</i>	<i>Rates per bigha</i>
1.	<i>Kuhal Abal/Salana</i>	<i>Rs. 7,00,000/-</i>
2.	<i>Obad Awal/Obad Doam.</i>	<i>Rs. 3,60,000/-</i>
3.	<i>Banjar Jadeed and Banjar Kadeem.</i>	<i>Rs. 2,60,000/-</i>
4.	<i>Nakabil, Gair Mumkin and Ghasini.</i>	<i>Rs. 60,500/-</i>

4. In Section 4 Notification, 20 Khasra numbers, including Khasra No. 48 measuring 0-6 bigha, with classification Gair Mumkin Kuhal were notified in the land proposed to be acquired. In Notification under Section 9 of the Land Acquisition Act Khasra No. 48 was included in the list of Khasra numbers of specification of land and in details in para 55 prepared at the time of determination of amount Khasra No. 48 measuring 0-6 bigha with classification Gair Mumkin Kuhal was included and compensation related thereto was calculated.

5. In Award No. 651, on second page, details of land to be acquired under this award has been given wherein Khasra No. 48

measuring 0-6 bigha Gair Mumkin Kuhal has been reflected. It is admitted fact that for land with classification Kuhal, Land Acquisition Collector had determined value at the rate of ₹7,00,000/- per bigha.

6. The aforesaid determination of value of land by Collector, was assailed by the land owners in Land Reference Petitions preferred under Section 18 of the Land Acquisition Act bearing Land Acquisition Petition Nos. 18-LAC-4 of 2014, titled Prem Pal Vs. Renukaji Dam Project and another; 21-LAC-4 of 2014, titled Dinesh Kumar Vs. Renukaji Dam Project and another; 15-LAC-4 of 2014, titled as Virender Singh Vs. Renukaji Dam Project and another and 16-LAC-4 of 2014, titled Anand Singh Vs. Renukaji Dam Project. Vide impugned awards dated 9.6.2017 and 22.12.2015 passed in these petitions, Reference Court had enhanced value of land of the classification of Nakabil, Gair Mumkin and Ghasni from ₹60,500/- to ₹1,00,000/- per bigha, but maintaining the same value of land with respect to other classification of land as determined by the Collector in Award No. 651 of 2012.

7. Present appeals have been preferred against the aforesaid awards passed by Reference Court, wherein Cross Objection No. 33 of 2019 has also been preferred on behalf of land owners in RFA No. 133 of 2018.

8. It is also undisputed that another piece of land belonging to the same village was also acquired vide Notification dated 4.10.2008 issued under Section 4 of the Land Acquisition Act, which was lastly published on 1.1.2009 and in that Award No. 645, dated 6.8.2012 was passed by Land Acquisition Collector by determining the value of land on the same pattern.

9. In Land References, arising out of the said Award No. 645, similar value was determined by the Reference Court, pertaining to the land, enhancing the value of land of the category of Nakabil, Gair Mumkin and Ghasni from ₹60,500/- to ₹1,00,000/- but maintaining the value of remaining

land as was determined by the Land Acquisition Collector. Award passed by the Reference court in those cases was subjected to appeals preferred by Project Proponent as well as land owners in RFA No. 171 of 2016 and other connected appeals, which were decided by a co-ordinate Bench of this Court on 9.12.2019 by passing the following order:-

*“6. The issue, which this Court is called upon to determine is as to whether such re-determination of the market value is in consonance with the judgment rendered by the Apex Court in **Viluben Jhalejar Contractor (Dead) by LRs vs. State of Gujarat, (2005) 4 SCC 789**, or not?*

*7. The law for award of compensation at uniform rates, when the purpose of acquisition is common and no developmental activity is required to be carried out is no longer res integra and stands settled by Hon’ble the Supreme Court in **Viluben Jhalejar** (supra); **Himmat Singh and others Versus State of Madhya Pradesh and another, (2013) 16 SCC 392 (para 34)**; **Peerappa Hanmantha Harijan (Dead) By Legal Representatives and others Versus State of Karnataka and another , (2015) 10 SCC 469 (paras 80 and 81)**; as also this Court in **RFA No. 953 of 2012, titled as Land Acquisition Collector & another Versus Jatinder Singh, decided on 01.06.2016** and other connected matters.*

*8. It is a settled principle of law that if the land is fully utilized for public purpose, which in the instant case is construction of Renukaji Dam and its submergence area and that no further developmental activities were required to be carried out, the claimants would be entitled to the compensation on uniform basis, irrespective of its classification and category. This is also the position reiterated in **Peerappa Hanmantha Harijan** (supra).*

9. The record reveals that rate for the best classification of land in the villages in question was Rs.7 lacs. Under these circumstances, the impugned awards, passed by the learned District Judge/Additional District Judge, Sirmaur District at Nahan, H.P., in the appeals/Cross Objections filed by the claimants are allowed with the direction that the market value of the acquired land is re - determined and the claimants are held entitled to compensation @ Rs.7,00,000/- per bigha, irrespective of its classification and category. Insofar as appeals filed by the beneficiary(ies) are concerned, the same are dismissed. The modification is only to this extent and the remaining portion of the award shall continue to

operate as such. It is made clear that the proforma respondents/claimants shall also be entitled to the benefit of enhanced compensation amount under this judgment.”

10. Land acquired in present cases belongs to the same village, value whereof was determined by the Land Acquisition Collector identical to the land under reference in RFA No. 171 of 2016 and others connected appeals indicating that land involved in both set of cases was of the same value and potential. Notification under Section 4 of the Land Acquisition Act in present case was issued on 1.8.2009, whereas in cases of Award No.645, Notification under Section 4 of the Land Acquisition Act was issued on 4.10.2008. Therefore, Notification under Section 4 of the Land Acquisition Act in present case, is later in time than the Notification issued in Award No.645 and it is a natural phenomena that with the passage of time value of land is increasing and further that Land Acquisition Collector has considered the value of land involved in both Awards, i.e. Award Nos. 645 and 651, as identical and, therefore, I have no hesitation to say that present case is squarely covered by the pronouncement of Co-ordinate Bench of this Court in RFA No. 171 of 2016 and connected matters.

11. In view of above discussion land owners in present cases are also held entitled for compensation at the rate of ₹7,00,000/- per bigha, irrespective of classification and category of land acquired, with all consequential statutory benefits as available under law.

12. Project Proponent, through its General Manager, is directed to deposit enhanced amount within a period of eight weeks from today.

The appeals alongwith Cross Objection stand disposed of in aforesaid terms.

28th February, 2023
(Keshav)

**(Vivek Singh Thakur),
Judge.**