



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8104 of 2010
Reserved on : 11.03.2026
Decided on : 18.03.2026

Sohan Lal (Deceased) through LRs.

...Petitioners.

Versus

HP Electricity Board and Others.

...Respondents.

Coram

Hon'ble Mr. Gurmeet Singh Sandhawalia, Chief Justice.

Hon'ble Mr. Justice Bipin Chander Negi, Judge.

Whether approved for reporting?¹

For the petitioners : Mr. Vinay Kuthiala, Sr. Advocate with
Mr. Diwan Singh Negi, Advocate.

For the respondent(s) : Ms. Sunita Sharma, Sr. Advocate with
Mr. Mohit Sankhyan, Advocate, for
respondents No.1 and 2.

Mr. Balram Sharma, Deputy Solicitor
General of India, for respondent No.3-Union
of India.

None for respondent No.4.

Bipin Chander Negi, Judge

By way of the present writ petition, the following
reliefs have been sought: -

*"b) That the respondents be directed to pay the full
and correct market value and compensation to the
petitioner and respondent No.3 for their acquired land
inherited from Sh. Kali Ram at the rate of Rs.48,400/-
per bigha along with statutory benefits, in the same
manner as has been done in the case of persons*

whose land was acquired under the same notification under Section 4 of the Land Acquisition Act, 1894.

c) That Section 18 as well as Section 28A of the Land Acquisition Act may kindly be declared to be invalid and unconstitutional to the extent that the limitation prescribed therein for filing an application for seeking a reference or for payment of the correct market value of the acquired land is violative of the mandate of Article 31-A-(1) 2nd Proviso of the Constitution of India and these provisions of the Land Acquisition Act may kindly be quashed and held unconstitutional and invalid to this extent and the petitioner and proforma respondent may be declared to be entitled to receive the true and correct compensation for their acquired land."

2. In view of the judgment delivered by a Coordinate Bench of this Court in **CWP No. 3803 of 2010, titled Mohammad Ali Vs. Land Acquisition Collector**, whereby vires of Section 18 as well as Section 28-A of the Land Acquisition Act, 1894 (for the purpose of brevity hereinafter referred to as the "Act") were upheld to the extent of limitation prescribed therein, the petitioners have limited the relief claimed in the writ petition only to receive compensation. The

same is evident from order dated 22.08.2025.

3. In the case at hand, the lands of Sh. Bahu Ram and Sh. Kali Ram, sons of Phindu, had been acquired by respondent No.1 for setting up the Ghanvi Hydel Power Project in Village Ghanvi, Rampur Busahr, HP. They both had an equal share in the land acquired, which is the subject matter of the present case.

4. Notification for acquisition under Section 4 of the Act was issued on 08.09.1988. After following the procedure laid down under the law. The Land Acquisition Collector (for short "LAC") had passed an award under Section 11 of the Act on 20.11.1991. In the Award made by the LAC, dated 20.11.1991, Sh. Bahu Ram was awarded Rs.1,35,671/-, whereas Sh. Kali Ram was awarded Rs.1,35,672/-. The LAC had determined the market value of the acquired land on the basis of classification of land.

5. Feeling aggrieved by the Award passed by the LAC, Sh. Bahu Ram along with 15 other land-owners had filed a land Reference bearing No.19-R/4 of 1997, under Section 18 of the Act. The Reference made by the LAC was heard and decided by the learned District Judge, Kinnaur at Rampur, HP.

Vide award dated 07.03.2003, the District Judge had enhanced the compensation and had granted a uniform rate for the land acquired irrespective of the classification of land. The District Judge in the Reference had determined the market value of the land in question at approximately Rs.88,000/- per bigha.

6. During the pendency of the Reference Petition, Sh. Bahu Ram had died on 09.11.1998. Subsequent to his death, the original petitioner, proforma respondent No.4, Kedar Singh, Nirma Devi and Kamla Devi had filed an application for being impleaded as sons and daughters of late Sh. Bahu Ram. Along with the application so filed, a certificate issued by the Block Development Officer was also filed to the effect that the aforesaid persons are the sons and daughters of late Sh. Bahu Ram. On the basis of the aforesaid application, the said individuals were impleaded as legal representatives of late Sh. Bahu Ram. Besides the aforesaid, a Power of Attorney was issued by the aforesaid legal representatives in favour of the counsel showing them to be the sons and daughters of late Sh. Bahu Ram.

7. The present respondent No.1, feeling aggrieved by

the Award passed by the Reference Court dated 07.03.2003, had preferred a RFA No.112 of 2003, whereby a challenge was laid to the aforesaid Award passed by the District Judge. The same was decided on 02.09.2008. The compensation awarded by the District Judge in the Reference Petition on 07.03.2003, was reduced from Rs.88,000/- per bigha to Rs.48,400/- per bigha in the appeal preferred by respondent No.1 under Section 54 of the Act.

8. During the pendency of the appeal (RFA 112 of 2003) preferred under Section 54 of the Act, the original petitioner and proforma respondent No.4 had preferred an application, (CMP No. 511 of 2006) whereby a direction was being sought against present respondent No.1 to deposit the entire enhanced compensation along with all statutory benefits for the entire land acquired, vide the impugned award. The application was filed in the backdrop of the fact that in the appeal pending consideration before the High Court qua the acquisition, respondent No.1 had only deposited the share of compensation in respect of land owned by late Sh. Bahu Ram in pursuance to the interim order passed therein. For the balance half share owned by Kali Ram (brother of Bahu Ram) compensation amount had not been deposited.

9. In the application bearing CMP No.511 of 2006 in RFA No.112 of 2003 so filed, the original petitioner and proforma respondent No.4 had contended that the Reference Petition bearing No.19-R/4 of 1997 under Section 18 of the Act, had been preferred by Sh. Bahu Ram on behalf of the entire set of co-owners and therefore, it was contended that compensation with respect to the entire land belonging to Sh. Bahu Ram and Sh. Kali Ram, as co-owner, should be deposited. The aforesaid contention was rejected by the learned Single Judge. While dismissing the application on 06.07.2007, the learned Single Judge was of the view that the same was misconceived as moving the present application in an appeal preferred under Section 54 by present respondent No.1, was not the appropriate remedy.

10. Other than the aforesaid, while rejecting the application, the learned Single Judge was of the view that in Section 18, the Reference Court had made no award in respect of the entire land. In view thereof, there was nothing to be executed by the original petitioner, present proforma respondent No.4 and other applicants who had filed the application. Last but not the least, the learned Single Judge was of the view that in order to claim compensation procedure

prescribed under the Act was required to be followed in letter and spirit. No compensation could be claimed de hors the provision of the law.

11. Subsequent to the dismissal of CMP No. 511 of 2006 in RFA No.112 of 2003 on 06.07.2007, the original petitioner and proforma respondent No.4 did not seek any redressal of their grievances. Thereafter, RFA No.112 of 2003, under Section 54 of the Act was decided by the learned Single Judge of this Court on 02.09.2008, whereby compensation was determined @ Rs.48,000/- per bigha. The present petition was thereafter filed on 03.11.2010. The sum and substance of the petition is that once a co-owner has been paid fair market value for their acquired land, then denial of the same to the other co-owner would be a travesty of justice. Based on the aforesaid, it is contended that on mere technicalities fair compensation cannot be denied.

12. In response filed to the writ petition, respondents No.1 and 2 have claimed that the petition in the case at hand is barred by delay and laches and there exists an alternative remedy. Besides the aforesaid, it is contended that once compensation awarded by the LAC has been received without

any protest nor has any Reference Petition under Section 18 of the Act been filed by the original petitioner and proforma respondent No.4 or by their predecessor-in-interest, the present petition would not be maintainable. Other than the aforesaid, it is contended that the said individuals could have taken recourse to Section 28-A of the Act for redetermination of compensation, since the same has not been done within the limitation prescribed, therefore, the present petition deserves to be dismissed. On merits the claim of original petitioner, proforma respondent No.4 being the successors of late Sh. Kali Ram has been specifically admitted in paragraph-3 of the reply on merits.

13. Admittedly, in the case at hand, on 20.11.1991, the LAC had passed an Award whereby both Sh. Bahu Ram and Sh. Kali Ram had been awarded compensation for the joint lands acquired. Insofar as Sh. Kali Ram is concerned, he did not lay a challenge to the Award passed by the LAC either by filing an application under Section 18 of the Act nor was an application filed under Section 28-A of the Act. After the appeals under Sections 18 and 54 of the Act came to be disposed of, whereby the Reference Court had enhanced the compensation granted by the LAC and the learned Single

Judge had reduced the compensation awarded, insofar as the acquired land of Sh. Kali Ram was concerned, the present petition was filed.

14. In ***Ramphal and Ors. Vs. Haryana State Industrial and Infrastructure Development Corporation Limited and Ors., SLP(C) Nos.4532-4539 of 2023*** decided on 13th January, 2026, the apex court has held that a land loser cannot be deprived of his legitimate compensation to which he is entitled, more so when his blood relatives, who have pursued remedies available to them under law, have received a higher compensation. Non-grant of higher compensation awarded in favour of the close blood relatives, co-owners would cause a heart burn inter se, and thus benefit was given while restricting the benefit of interest for only 05 years period.

15. Besides the aforesaid on an earlier occasion in ***Jalandhar Improvement Trust Vs. State of Punjab and Others (2003) 1 SCC 526*** the Supreme Court had held that even on first principle, one co-owner is entitled to have the benefit of the enhanced compensation given in respect of the other co-owners in a reference made at his instance in respect

of the land acquired, which belonged to all of them jointly.

16. Moreover, while dealing with the issue of acquisitions rendering of substantial justice to the party whose land has been acquired is the paramount consideration as acquisition under the Act is on the principle of eminent domain to which the owner is not a willing party. Hence compensation required to be paid for lands acquired for public purpose should be fair and just. Therefore, compensation granted by the Land Acquisition Collector is subject to judicial scrutiny in the form of Reference to the District Judge and an appeal to the High Court. Once a fair compensation has been judicially determined, then it is an imperative of good governance that all the landowners whose lands have been acquired should get the same benefit. Discrimination in grant of compensation on technical grounds needs to be avoided in order to give a fair treatment to all concerned. In this respect it would be appropriate to refer to the authoritative pronouncement of the Supreme Court in ***Narendra and Others Vs. State of Uttar Pradesh and Others, (2017) 9 SCC 426***. The relevant extract is reproduced herein below:-

"..... 8. The purpose and objective behind the aforesaid provision is salutary in nature. It is kept in

mind that those landowners who are agriculturist in most e of the cases, and whose land is acquired for public purpose should get fair compensation. Once a particular rate of compensation is judicially determined, which becomes a fair compensation, benefit thereof is to be given even to those who could not approach the court. It is with this aim the aforesaid provision is incorporated by the legislature. Once we keep the aforesaid purpose in mind, the mere fact that the compensation which was claimed by some of the villagers was at lesser rate than the compensation which is ultimately determined to be fair compensation, should not be a ground to deny such persons appropriate and fair compensation on the ground that they claimed compensation at a lesser rate. In such cases, strict rule of pleadings are not be made applicable and rendering substantial justice to the parties has to be the paramount consideration. It is to be kept in mind that in the matter of compulsory acquisition of lands by the g Government, the villagers whose land gets acquired are not willing parties. It was not their voluntary act to sell off their land. They were compelled to give the land to the State for public purpose. For this purpose, the consideration which is to be paid to them is also not of their choice. On the contrary, as per the scheme of the Act, the rate at which compensation should be paid to the persons Scheme further provides that his determination is subject to judicial scrutiny etc. In order to ensure that the landowners are given proper compensation, in the form of reference to the District Judge and appeal to the High Court, the Act provides for "fair compensation". Once such a fair compensation is determined judicially, all landowners

whose land was taken away by the same notification should become the beneficiary thereof. Not only it is an aspect of good governance, failing to do so would also amount to discrimination technical grounds, like the one adopted by the High Court in the impugned judgment, this fair treatment cannot be denied to them."

17. Though Section 28-A of the Act is not involved in the case at hand a reference to the apex court judgement in ***Banwari and Others Vs. Haryana State Industrial and Infrastructure Development Corporation Limited, 2024 SCC Online SC 3685***, wherein Section 28-A of the Act came up for consideration would be relevant. The Apex Court was of the view that the said provision being a beneficial piece of legislation had been enacted in order to give relief to inarticulate and poor people. Hence, the principle of interpretation required to be adopted by Courts is the one, which advances the policy of legislation to extend benefit rather than a construction, which has the effect of curtailing the benefit conferred by it. The relevant extract of the same reads as under:-

"24. As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of Pradeep Kumari and Others (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A

would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. The same benefit would be available to the other landholders under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of interpretation which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it."

18. In the aforesaid judgment, it has been held that the period to seek redetermination of compensation under Section 28-A of the Act would be a period of three months from the judgment of the High Court in First Appeal. The said view taken by the Apex Court in **Banwari (supra)** reiterated the earlier view taken by the Apex Court in **Union of India and Others Vs. Pradeep Kumari and Others, (1995) 2 SCC 736**.

19. In the case at hand award in RFA No.112 of 2003, under Section 54 of the Act was passed by the learned Single Judge of this Court on 02.09.2008. In view of the law laid

down in ***Banwari (supra)*** the petitioners, proforma respondent No.4 could have sought redetermination of compensation under Section 28-A of the Act within a period of three months from the judgment of the High Court in First Appeal, on 02.09.2008. The present petition was filed on 03.11.2010. In the said facts and attending circumstances there arises no reason to curtail the grant of *interest* in favour of the petitioners and proforma respondent No. 4 as has been done by the apex court in ***Ramphal's*** case cited supra.

20. Keeping in view the aforesaid, the petitioners, proforma respondent No.4 are legitimately entitled to compensation as has been awarded to Bahu Ram and the same cannot be denied to them on hyper-technical grounds.

21. In the aforesaid terms, the present petition is allowed and stands disposed of. The needful be done within three months from today. The pending miscellaneous application(s), if any, also stand disposed of.

(G.S. Sandhawalia)
Chief Justice

(Bipin Chander Negi)
Judge

18th March, 2026
(Gaurav Rawat)