

**Sr. No.111****HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU****MA No.269/2015**
CM No.4651/2019Reserved on: **05.02.2026**Pronounced on: **19.02.2026**Uploaded on: **19.02.2026***Whether the operative part or
full judgment is pronounced : full*

1. **Mumtaz Ahmed**, Age 40 years
S/O Abdul Gani
2. Abdul Hamid Raina Age 75 years
S/O Abdul Gani
3. Mirza Wazir Hussain Age 70 years
S/O Suba Khan
4. Javed Raina Age 46 years
S/O Abdul Rashid Raina
5. Mohd. Iqbal Age 45 years
S/O Ghulam Hussain
6. Mohd. Shabir Age 42 years
S/O Dil Mohd



All residents of Tehsil Thanamandi District Rajouri

.....Petitioners/Appellants

Through: Mr. M.I Sherkhan, Advocate.

Vs.

1. Collector Land Acquisition Rajouri.
2. Director Higher Education, Jammu.

..... Respondents

Through: Mrs. Monika Kohli, Sr. AAG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE**(JUDGMENT)**

1. Appellants, through the medium of this appeal, assail judgment dated 30.09.2015 (impugned judgment) passed by learned Principal District Judge, Rajouri (Reference Court) in Land Acquisition Reference No.11 titled "**Abdul Hamid & Ors. Vs. Collector Land Acquisition & Anr.**" to the extent of



assessing compensation of their land @ ₹3.00 lacs per kanal. Additionally, they seek a direction to the respondents to grant compensation @ ₹10.00 lakh per Kanal as has been granted in one of the sale deed executed on 29.11.2006.

2. The facts in brief as narrated in the appeal are that:

Pursuant to an indent placed by respondent No.2-Director Colleges, Higher Education Department, J&K Government- vide communication No. HE/Plan-66/2005 dated 18.08.2005, for the purpose of construction of building for Government Degree College at Thanamandi, respondent No.1-Collector Land Acquisition, Rajouri, issued Notification dated 19.08.2005 under Section 4 of the Land Acquisition Act, calling objections from the interested persons relating to the acquisition of the land and in response to this notice, appellants submitted their objections. Thereafter, the respondents acquired the land of the appellants and determined the compensation @ 1.50 lakh per Kanal, which was received by the appellants under protest.

Being not satisfied with the compensation awarded to them, the appellants applied for making Reference under Section 18 of the Land Acquisition Act, for enhancement of the compensation on the ground that the rate of the land in the vicinity adjoining to the land of the appellants is very high as the land in question falls under Municipal limits of Tehsil Thanamandi, as such, Reference was made to District Court Rajouri. On the basis of pleadings and after hearing both the sides, the reference was decided by the Reference Court by enhancing amount of compensation at the rate of ₹ 3.00 lakh per Kanal along with



Jabrana @ 15% on the enhanced amount and with interest @ 6% per annum from the date on which the possession of the acquired land was taken by the respondents, till excess amount is made.

3. Appellants land owners, however, not even satisfied with the judgment dated 30.09.2015, passed by the Reference Court preferred the instant appeal, assailing the judgment on the grounds that the appellants had examined witnesses in the Court including revenue officers/officials, who had stated that the rate of the land in the vicinity where the land of the appellants is situated, is very high and not less than ₹ 10.00 lakhs; and had produced some registered sale deeds pertaining to year 2005 wherein in one of the sale deed, the rate of the land was shown as ₹ 4.00 lakhs per kanal before the award was passed on 27.12.2006; and whereas in another, the rate of such land had been shown as ₹ 6.00 lakh per kanal, however, the Reference Court had not considered the rates of the land in the vicinity of the acquired land.

4. Learned counsel for the appellants has argued that the Apex Court in various judgments, had observed that the market value of the land cannot be avoided and whatsoever is the rate in the vicinity of the adjoining land which has been acquired and which is evident from the sale deeds, the compensation is required to be given at the said rate as per the market value, however, the Collector as well as the Reference Court had rejected the claim of the appellants though substantial evidence was produced by the appellants, in support of their contention. He has further argued that the Apex Court in a case titled “**Haridwar**



Development Authority vs. Raghubir Singh” reported as (2010) 11 SCC 581, had held that no deduction or cut should have been effected in the price disclosed by the sale deed for arriving at the market value and that the same view was taken by the Apex Court in other cases as well. He further argued that the market value of the land as per the sale deed executed by one Hussain Mohd. in favour of Saghir Ahmed on 29.11.2006 with regard to 3 marlas of land was shown as ₹ 90,000/- which means ₹6.00 lakh per kanal and as such, the compensation is required to be enhanced; that the Reference Court had not appreciated the documentary evidence produced by the appellants; that the land of the appellants acquired by the respondents was at a prime place adjoining the road, government buildings and finally it was prayed that the impugned judgment be quashed to the extent of assessing the rate of the land of the appellants as ₹ 3.00 lakh per kanal; and that the respondents be directed to pay compensation at the market rate of ₹10.00 lakh per kanal, as had been the sale consideration in one of the sale deeds executed on 29.11.2006.

5. Learned counsel for the respondents, on the other hand, has argued that the land of the appellants was acquired for the construction of building of Government Degree College at Thannamandi in the year 2005 and after soliciting objections from the interested persons and land owners, relating to acquisition of the land, the Collector after initiating the process of acquisition, had proposed compensation @ ₹ 1.50 per kanal along with 15% Jabrana which had been approved by the Financial Commissioner, Revenue, J & K, vide his order dated



13.12.2006; that the appellants after receiving the compensation had prayed for making a reference to the District Court which was made by the Collector and the Reference Court vide impugned judgment, after consideration of the oral as well as documentary evidence adduced, had modified the award passed by the District Collector enhancing the compensation of the land payable to the appellants @ of ₹ 3.00 lakh per kanal besides statutory Jabrana.

6. Learned Sr. AAG has also argued that the witnesses examined by the appellants before the Court below had stated that the land was situated at Thannamandi about more than 20 kilometers from District Headquarters of Rajouri, had not very potential market value as the land was situated at Thannamandi-Shahdra road, away from the market; that the copies of the sale deeds that the appellants had produced before the Reference Court were pertaining to distant land and also small parcel which cannot be made basis for grant of compensation for the land in question. She has finally argued that the compensation granted by the Collector had already been doubled by the Reference Court and does not call for any interference by this Court, invoking the appellate jurisdiction.

7. The Government of Jammu & Kashmir had acquired 38 kanals 10 marlas of land situated at village Hasplote Tehsil Thannamandi, Rajouri, for the construction of building for establishment of Government Degree College at Thannamandi in the year 2005, the Collector during acquisition proceedings had called objections from the interested persons as land owners and the indenting



department, acquired the land granting compensation @ ₹ 1.5 lakh per kanal. After receiving the compensation by the appellants land owners under protest, an application was moved for making reference to the District Court, the reference was made, which was decided by the Reference Court on 30.09.2015, enhancing the rate of compensation from ₹ 1.50 to ₹ 3.00 lakh per kanal in favour of the land owners. The appellants, however, assailed the award passed by the Reference Court before this Court on the afore-stated grounds that the Reference Court had ignored the statements of the witnesses examined by the appellants and the documentary evidence led in the form of copies of the sale deeds.

8. The Reference Court on filing of pleadings by the parties, had framed following issues for trial of the Reference:

1. Whether the Collector has failed to assess the market rate of the acquired land as per prevailing market value?
2. In case the issue No.1 is proved in affirmative, what is the just and proper compensation to which the claimants are entitled to? OPP
3. Whether the reference of dispute is time barred? OPD.
4. Relief.

9. The appellants had examined land owners-Abdul Rashid, Manzoor Hussain, Haji Ghulam Hussain, Abdul Rashid, Mohd. Hussain, Mohd. Bashir, Mohd. Riaz, Wazir Hussain, Guftar Ahmed, Mohd. Shabir, Mohd. Iqbal, Kala Khan, Mohd. Sadiq, Hassan Mohd., Abdul Aziz, Ayaz Ahmed, Mumtaz Ahmed,



Javed and Mohd. Azam-Patwaries, Mohd. Farooq Khan-Tehsildar as their witnesses, whereas the respondents did not lead any evidence, in support of their case.

10. The land owners- Abdul Hamid, Manzoor Hussain, Haji Ghulam Hussain, Abdul Rashid, Mohd. Hussain, Mohd. Shabir, Mohd. Iqbal, examined themselves as their witnesses before the Reference Court. All of them made almost similar statements stating that their land has been acquired for the construction of the building of Govt. Degree College at Thannamandi, for which they had been given compensation at a low rate, whereas the fact of the matter was that the land acquired was within the municipal jurisdiction of Thannamandi and was cultivable land producing rice, wheat, and vegetables. The land was plain and was adjoining to the Thannamandi-Shahdra Sharief road having much commercial value as the Army unit and the buildings of Muslims Education Trust and shops were in the vicinity. The land had a potential value of at least Rs.10.00 lakhs per kanal; on their cross-examination they have stated that the land of the appellants was at a distance of more than 20 kms from Rajouri town and that there were no industries in the area.

11. The appellants had also examined Hasan Mohd., Abdul Aziz, Ayaz Akhter, Mumtaz Ahmad, Guftar Ahmed, Kala Khan, Mohd. Bashir, Mohd. Sadiq, Mohd. Riaz, Javed Iqbal and Mohd. Azam patwaries and Mohd. Farooq Khan-Tehsildar Thanamandi as their witnesses. PW-Hasan Mohd stated that he had sold three marlas of land to one-Sagheer Ahmed against the sale consideration of



Rs.90,000/- vide Sale Deed dated 28.11.2006 in the next year of the acquisition of the land in question and stated that the petitioners' land had a market value of not less than Rs.10.00 lakhs per kanal. In his cross examination, he has stated that the land that he had sold was in the vicinity of the petitioners' land that was acquired, situated across the road, where shops have been constructed. PW-Abdul Aziz stated that the appellants' land is situated within municipal limits surrounded by various buildings/offices and have a potential commercial value; that he had sold his land measuring six marlas to one-Maqbool Hussain and his brothers against sale consideration of an amount of Rs.1.00 lakh as per the sale deed which he had produced. In his cross examination, he has stated that near the land of the appellants, there was no market. PWs-Ayaz Akhter, Mumtaz Ahmed, Guftar Ahmed, Kala Khan, Mohd. Bashir, Mohd. Sadiq, Mohd. Riaz have stated that the land of the appellants acquired by the respondents had potential market value being situated within municipal limits of Thannamandi, land being plain and producing different crops and is situated adjacent to Army Unit and an Academy and that the land had a value of at least Rs.10.00 lacs per kanal.

12. PWs Javed Iqbal and Mohd. Azam who were patwaries of Halqa Thanna and Hasplote stated that they had seen the acquired land situated at Thannamandi-Shahdra Road near army brigade headquarters. The land had good productive value and commercial viability; in their cross-examination, they stated that the land was situated at a distance of more than 20 kms from Rajouri in the foot of the hills of Thannamandi. PW- Mohd. Farooq Khan, Tehsildar



Thannamandi while being examined stated that the appellants' land acquired for construction of Govt. Degree College was situated at Thannamandi-Shahdra Road and that as per the report of then Tehsildar, the minimum rate of the land was Rs.2,66,000/-; he on his cross-examination deposed that land was situated at about half a kilometer from Thannamandi town.

13. The respondents did not lead any evidence in rebuttal before the Reference Court.

14. Besides above-mentioned oral evidence, the appellants had also produced copies of the sale deed before the Reference Court, which indicated that a piece of land measuring 3 marlas was sold against a sale consideration of Rs.90,000/- on 28.11.2006 and another piece of land measuring six marlas of land was sold against a sale consideration of Rs.1.00 lakh on 06.06.2005. The Reference Court, keeping in view, all the relevant factors applicable to the facts of the case in its wisdom held the appellants entitled to compensation at the rate of Rs.3.00 lakhs per kanal along with 15 per cent compulsive acquisition and, as such, replied the reference enhancing the compensation to double.

15. The oral evidence that had been led by the appellants before the Reference Court indicated that the land was situated at Thannamandi-Shahdra Road near Army Brigade Headquarters and also an Educational Acemdemy of the Muslims Educational Trust where other buildings /offices were also situated. The road had an access by a link road and on that link, this three marlas of land had



been sold against a consideration of Rs.90,000/- on 28.11.2006, which means that the rate per kanal was Rs.6.00 lakhs. Similarly, the six marlas of land also sold in the vicinity of the land acquired on 06.06.2005 against a consideration of Rs.1.00 lakh, as such, rate per kanal comes to Rs.3.33 lakhs.

16. The Reference Court, keeping in view, the evidence led by the appellants, documentary as well as oral evidence, had come to decide market value of the land @ Rs.3.00 lakhs per kanal, however, it appears that the Reference Court has fallen in error not to consider the oral as well as documentary evidence which indicated that land had a potential value. The documents, in the shape of sale deeds, , which had been executed around or soon after the acquisition with regard to the land situated in the vicinity of the acquired land were also indicative that the land had a rate from Rs.3.33 lakhs to Rs.6.00 lakhs per kanal.

17. The Apex Court in a case titled “*Viluben Jhalejar Contractor vs. State of Gujarat*”, reported in (2005) 4 SCC 789, has laid down the principles for determination of market value of the acquired land. Paras 17, 18, 19 and 20 shall be relevant and are reproduced as under:-

“17. Section 23 of the act specifies the matters required to be considered in determining the compensation; the principal among which is the determination of the market value of the land on the date of the publication of the notification under sub-section (1) of Section 4.



18. One of the principles for determination of the amount of compensation for acquisition of land would be the willingness of an informed buyer to offer the price therefor. It is beyond any cavil that the price of the land which a willing and informed buyer would offer would be different in the cases where the owner is in possession and enjoyment of the property and in the cases where he is not.

19. Market value is ordinarily the price the property may fetch in the open market if sold by a willing seller unaffected by the special needs of a particular purchase. Where definite material is not forthcoming either in the shape of sales of similar lands in the neighbourhood at or about the date of notification under Section 4(1) or otherwise, other sale instances as well as other evidences have to be considered.

20. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be indentified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-à-vis the land under acquisition by placing the two in juxtaposition.”

18. The Apex Court in another case titled “*Major General Kapil Mehra & Ors. vs. Union of India & Anr.*”, in its judgment dated 17.10.2014 reported as **2014 AIR SC 6086** has laid down the following principles to determine the market value of the land under acquisition. Para Nos.10 and 11 of the judgment shall be relevant to be reproduced here under:



“10. The first question that emerges is, what would be the reasonable market value which the acquired lands are capable of fetching. While fixing the market value of the acquired land, the land acquisition officer is required to keep in mind the following factors: (i) existing geographical situation of the land; (ii) existing use of the land; (iii) already advantages, like proximity to National or State Highway or road and/or developed area; and (iv) market value of other land situated in the same locality/village/area or adjacent or very near to the acquired land.

11. The standard method of determination of the market value of any acquired land is by the valuer evaluating the land on the date of valuation publication of notification under Section 4(1) of the Act, acting as a hypothetical purchaser willing to purchase the land in open market at the prevailing price on that day, from a seller willing to sell such land at a reasonable price. Thus, the market value is determined with reference to the open market sale of comparable land in the neighbourhood, by a willing seller to a willing buyer, on or before the date of preliminary notification, as that would give a fair indication of the market value.”

19. In a case titled “*Karnataka Urban Water Supply and Drainage Board vs. K.S Gangadharappa*” (2009) 11 SCC 164, factors which merit consideration as comparable sales are, inter alia, laid down as under:

“It can be broadly stated that the element of speculation is reduced to minimum if the underlying principles of fixation of market value with reference to comparable sales are made:

- (i) when sale is within a reasonable time of the date of notification under Section 4(1);



- (ii) it should be a bona fide transaction;
- (iii) it should be of the land acquired or of the land adjacent to the land acquired; and
- (iv) it should possess similar advantages.”

20. Comparable sales method for valuation of land is adopted by the Courts while fixing the market value of the acquired land rather than methods of valuation of land such as capitalisation of net income method or expert opinion method, comparable sales method is preferred because it furnishes the evidence for determination of the market value of the acquired land at which the willing purchaser would pay for acquired land, if it had been sold in the open market at the time of issuance of notification under Section 4 of the Act. There are factors which are required to be satisfied and only on fulfillment of those factors the market value of the acquired land is fixed while taking comparable sales method of valuation of land, the compensation can be awarded according to the value of the land stated in the sale deeds.

21. It is worth to be mentioned that where the land acquired are of different type and different locations, averaging is not permissible. But where there are several sales of similar lands, more or less, at the same time, whose prices have marginal variation, averaging thereof is permissible. For the purpose of fixation of fair and reasonable market value of any type of land, abnormally high value or abnormally low value sales should be carefully discarded. If the number of sale deeds of the same locality and the same period with short intervals are available, the average price of the available number of sale deeds shall be considered as a



fair and reasonable market price. Ultimately, it is in the interest of justice for the land losers to be awarded fair compensation. All attempts should be taken to award fair compensation to the extent possible on the basis of their accessibility to different kinds of roads, locational advantages, etc.

22. In view of the guidelines for the determination of the market value of the acquired land when sale deeds being comparable having in mind the point of time of the execution of the sale deeds and the acquisition of the land and the close vicinity of the location of both the lands, at least the view could have been taken by the Reference Court to grant compensation as compared to the sale deeds. The land was admittedly within the municipal limits of Municipal Committee, Thannamandi has deposed by the local Tehsildar. Distance from a district headquarters as has been highlighted during the cross-examination of the witnesses by the govt. counsel does not make any difference as the distances from one place to another is immaterial, particularly, in the face of the commercial value of the place where it had been acquired. It appears that the Reference Court had fallen in error to decide the issues with regard to the market value of the acquired land for just and proper compensation, particularly, in view of comparable sales method for valuation, which is adopted by the courts. In view of two sale deeds executed before and after the acquisition of land in question location thereof in vicinity and in Thanamandi town near market within municipal limits, showing different rates and on a comparable basis, in the considered opinion of this court, the mean of the two which shall be proper to assess the just



and fair compensation at the rate of which is worked out as Rs.4,66,666/- rounded off to Rs.4.67 lac per kanal.

23. Viewed thus, the findings recorded by the Reference Court in issues No.1 and 2 are set aside, holding that the land owners are entitled to receive compensation @ Rs.4.67 lak per kanal for their land acquired.

24. Having regard to the above discussion and the observations made hereinabove, this court is of the considered opinion that the Reference Court has not granted just and fair compensation to the appellants for the land acquired and the rate of compensation is ordered to be enhanced to Rs.4,67,000/- per kanal. The amount of compensation, to each of the land owners, shall be computed at this rate, so as to make payment, after adjustment of the compensation that they had already received and that the enhanced compensation shall be recoverable along with statutory compulsive acquisition (Jabrana) @ 15% and simple interest @ 6 per cent from the date possession of the land was taken over by the respondents.

25. The appeal is, accordingly, **allowed**, along with connected application(s).

(M.A. CHOWDHARY)
Judge

JAMMU
19.02.2026
Surinder/Raj kumar

Whether order is speaking: Yes/No
Whether order is reportable: Yes/No