

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA****RFA No. 149 of 2017****Reserved on: 07.03.2026****Date of decision: 01.04.2026**

Collector, Land Acquisition NHPC (PHEP) and another

....Appellants

Versus

Beli Ram and another

...Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge¹ *Whether approved for reporting?*

For the appellant: Ms. Shreya Chauhan, Advocate.

For the respondents: Mr. Sunil Mohan Goel, Senior Advocate with
Mr. Raman Jamalta, Advocate, for respondent
No.1.

Mr. Balwinder Singh Ballu, Deputy Advocate
General, for respondent No.2/State.

Sushil Kukreja, Judge

The instant appeal has been preferred under Section 54 of the Land Acquisition Act, 1894 (for short, 'the Act'), by the appellants/ NHPC (PHEP) against the award dated 20.03.2017, passed by the learned District Judge, Kullu, District Kullu, HP (for short 'the Reference Court'), with the prayer that the enhanced compensation granted in favour of the claimant (respondent No.1 herein) may be set-aside and the award dated 25.09.2007, passed by the Land Acquisition Collector be affirmed.

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*



2. The facts of the case, in brief, are that a notification under Section 4 of the Act was issued on 25.08.2007 for acquiring the land of the claimant/petitioner, situated in Phati Manyashi, Sub-Tehsil Sainj, District Kullu, HP for construction of Sainj bye-pass road by Parbati Hydro Electric Project (PHEP), Stage-III in Sainj Valley, which was published in Rajpatra on 05.09.2007 as well as in the *Punjab Kesri* and the Tribune on 26.09.2007 and 06.11.2007. Notification under Sections 6 & 7 of the Act was published in the *Danik Jagran & Hindustan Times* on 14.02.2008 and 11.02.2008, respectively and after detailed inquiry, the Collector announced Award No.42, dated 25.09.2008, whereby the amount of compensation, market price of the land etc. was determined as under:-

S.N.	Phatti	Total compensation	Area	Amount
1.	Manyashi	Compensation of land	(09-04-06 bighas)	25,61,484.00
2.	Compensation for structures 23(2) @ 30%			57,60,871.00
	Total amount including solatium and additional charge etc.			1,13,79,966.00
3.	Compensation of fruit bearing and non fruit bearing trees including solatium and additional charge etc.			7,63,554.00

3. The claimant/petitioner, feeling aggrieved and dissatisfied with the said award, preferred reference petition under Section 18 of the Act with the prayer that the matter be referred to the learned District Judge, Kullu, HP for payment of fair and adequate amount of



compensation.

4. The learned Reference Court, vide award dated 20.03.2017, allowed the reference petition with costs and the claimant-petitioner was held entitled to enhancement of compensation for the land acquired to the extent of his share and the market rate of the acquired land was determined at Rs.31,800/- per biswa and the value of his house/structure was assessed at Rs.9,60,000/-. The petitioner was also held entitled to all other statutory benefits, more particularly, in conformity with the ratio of law laid down by the Hon'ble Apex Court in *Sunder Vs. Union of India, 2001 SC 3516*.

5. I have heard learned counsel for the appellants as well as learned Senior Counsel for respondent No.1 and learned Deputy Advocate General for respondent No.2-State and have also carefully gone through the entire record.

6. Learned counsel for the appellants contended that the learned Reference Court had not applied the legal provisions applicable in the case in right perspective as no enhanced compensation was payable to the claimant. She also contended that the learned Reference Court erred in placing reliance on previous award Ext.PW1/A and, as such, undue burden has been put on the public exchequer. She further submitted that since the house of the petitioner was not acquired, therefore, the compensation could not have been awarded



under Section 18 of the Act.

7. Perusal of the impugned award reveals that the learned Reference Court determined market value of the acquired land @ Rs.31,800/- per biswa on the basis of previous award Ext. PW1/A, irrespective of the classification and kind of the land for the reason that the land under reference pertains to same notification and land in both the cases was acquired for the same purpose. Therefore, applying the principle of equity and parity, the learned Reference Court assessed the market value on the basis of the previous award Ext. PW1/A, having regard to the fact that both the lands were situated in Phati Manyashi, Sub Tehsil Sainj.

8. The parties are *ad idem* to the fact that award dated 30.04.2012, Ext. PW-1/A was challenged by the appellant/PHEP by way of filing different appeals, lead case being RFA No. 825 of 2012, titled as General Manager Parbati Hydro Electric Project, NHPC & another Vs. Kishan Chand and another, alongwith connected matters and the appeals filed by the PHEF (appellants herein) have been dismissed by this Court, vide judgment dated 07.01.2026.

9. Since the award dated 30.04.2012 (Ext. PW-1/A) has been upheld by this Court vide judgment dated 07.01.2026, therefore, no interference is required in the impugned award dated 20.03.2017, passed by the learned Reference Court so far as the market value of



the land assessed @ Rs.31,800/- per biswa is concerned.

10. Learned counsel for the appellant next contended that since the house of the petitioner was not acquired, therefore, the compensation could not have been awarded under Section 18 of the Act. The evidence on record reveals that in his affidavit Ext. PW4/A, petitioner Beli Ram (PW-4) deposed that his house was situated in Phati Manyashi, Kothi Banogi, which was built in the year 2006 and completed in the year 2007, prior to the notification, issued under Section 4 of the Act and the value of the house was Rs.40 lacs. However, no compensation was given by the respondents for his house. The petitioner had also examined PW-1 Mohan Kapoor, who had prepared map of the house Ext. PW1/A, valuation report Ext. PW1/B and abstract of costs Ext. PW1/C. PW-2 Man Singh produced on record house tax receipt Ext. PW2/A and PW-3 Beli Ram, who was Pradhan, Gram Panchayat Dushad, had issued certificate Ext. PW3/A, qua the house of the petitioner. On the other hand, no evidence was led by the respondents to show that the house of the petitioner was not existing on the acquired land and the same was constructed after issuance of the notification under Section 4 of the Act.

11. Perusal of the record reveals that the notification in the official gazette was issued on 05.09.2007 and the petitioner has duly established on record that he had constructed the house prior to the



date of notification. Perusal of the record further reveals that there is no evidence on record adduced by the respondents to show that the house was raised by the petitioner after the notification was published in official gazette i.e, on 05.09.2007. The respondents did not adduce any evidence, either in the shape of photographs or video-graphy, which could have shown/established that when the notification was published in the official gazette, the house of the petitioner did not exist on the spot and no evidence has been produced by the respondents to rebut the evidence of the petitioner. Thus, in view of the evidence led by the petitioner, it can be safely concluded that the house/structure was built by him prior to the notification under Section 4 of the Act. Therefore, the learned Reference Court had rightly held the petitioner entitled for compensation with respect to his house/structure, the value of which was assessed at Rs.9,60,000/-.

12. Hence, in view of what has been discussed hereinabove, the instant appeal, being devoid of any merits, is dismissed. Consequently, the impugned award dated 20.03.2017, passed by learned District Judge, Kullu, District Kullu, HP, is upheld.

Pending application(s), if any, shall also stand disposed of.

April 01, 2026
(V.Himalvi)

(Sushil Kukreja)
Judge