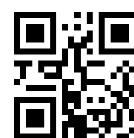

2026:HHC:14166

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 499 of 2015 with RFA No. 228 of 2016

Reserved on: 23.04.2026
Date of decision: 29.04.2026

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1. RFA No. 499 of 2015:

Anand Mehta & others …..Appellants.

Versus

Land Acquisition Collector & another ……Respondents.

2. RFA No. 228 of 2016:

Land Acquisition Collector & another …..Appellants.

Versus

Anand Mehta & another ……Respondents.

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

[1] *Whether approved for reporting?* Yes.

In RFA No. 499 of 2015:

For the appellants: Mr. V.S. Chauhan, Senior Advocate, with Mr. Arsh Chauhan and Ms. Priti Steta, Advocates.

For the respondents: Mr. Balvinder Singh Ballu, Deputy Advocate General.

In RFA No. 228 of 2016:

For the appellants: Mr. Balvinder Singh Ballu, Deputy Advocate General.

For the respondents: Mr. V.S. Chauhan, Senior Advocate, with Mr. Arsh Chauhan and Ms. Priti Steta, Advocates.

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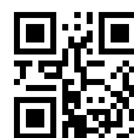
[1] *Whether reporters of Local Papers may be allowed to see the judgment?*



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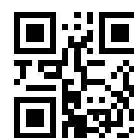
Sushil Kukreja, Judge.

Since both these appeals are the offshoots of impugned award dated 27.08.2015, passed by learned District Judge, Shimla, H.P. (hereinafter referred to as "the learned Reference Court"), they are taken up together for consideration and disposal.

2. Appellants, who were petitioners/claimants before the learned Reference Court (hereinafter referred to as the "petitioners/claimants"), preferred appeal, i.e., RFA No. 499 of 2015, and Land Acquisition Collector, HPPWD (South Zone) Winter Field, Shimla & another, who were respondents before the learned Reference Court, preferred appeal, i.e., RFA No. 228 of 2016, under Section 54 of the Land Acquisition Act, 1894 (for short "the Act"), against award dated 27.08.2015, passed by the learned Reference Court in Land Reference No. 38-S/4 of 2012, whereby the petition filed by the petitioners/claimants under Sections 18 of the Act, was allowed and they were held entitled to enhanced compensation @ Rs.1000/- per centare, irrespective of the kind and quality of the land alongwith solatium, additional compensation, interest etc..

3. The brief facts of the case are that the



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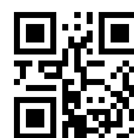
petitioners/claimants were the owners-in-possession of land bearing khasra No. 111, measuring 00-05-82 hectares, situated in Mohal 014501 Up Mohal Dvandri May Kathandri, Tehsil Kotkhai, District Shimla, H.P.. The land of the petitioners was acquired for the purpose of construction of road known as Marathu Tharola Road and notification under Section 4 read with Section 17(4) of the Act was issued on 20.08.2010. There were about 20 apple tress over the acquired land and the kind of the land was *bakhal aval (bagicha).* As per the petitioners, there was commercial potentiality of the acquired land, but the Land Acquisition Collector awarded meager amount of compensation for the acquired land. The petitioners further averred in their petition that the market value of the acquired land was Rs.10,000/- per centare and in addition to the market value other statutory benefits were also claimed by the petitioners. The petitioners also claimed use and occupation charges of the acquired land and averred that the possession of the land was taken in the year 1985 and they prayed that value of the acquired land be enhanced at the rate of Rs.10,000/- per centare with all statutory benefits.

4. The learned Reference Court, allowed the



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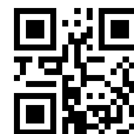
petition of the petitioners/claimants and held them entitled to enhanced market value of the acquired land @ Rs.1000/- per centare irrespective of the kind and quality of the land. They were also held entitled to solatium @ 30%, additional compensation @ 12% per annum on the market value determined above from the date of publication of the notification, interest @ 9% per annum on the enhanced amount of compensation from the date of notification under Section 4 of the Act for the first one year and thereafter @ 15% per annum and interest under Section 34 of the Act from the date of notification under Section 4 of the Act, if not paid by the Land Acquisition Collector.

5. Feeling still aggrieved, petitioners/claimants preferred RFA No. 499 of 2015, against the impugned award with a prayer that impugned award, being on the lower side, be modified by enhancing the compensation. On the other hand, the appellant, i.e., Land Acquisition collector & another (State of H.P.), preferred RFA No. 228 of 2016, against the impugned award, with a prayer to set-aside the same.

6. I have heard the learned Senior Counsel for the appellants in RFA No. 499 of 2015 and for the respondents in RFA No. 228 of 2016, learned Deputy Advocate General for

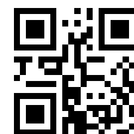


the appellants in RFA No. 228 of 2016 and for the respondents in RFA No. 499 of 2015 and carefully examined the entire records.

7. The learned Senior Counsel for the appellants (petitioners/claimants) contended that the learned Reference Court had failed to appreciate and consider the pleadings and evidence on record in its right perspective, thus the impugned award is liable to be modified by enhancement of compensation.

8. On the other hand, learned Deputy Advocate General for the appellants/State in RFA No. 228 of 2015 contended that the impugned award passed by the learned Reference Court is wrong, illegal and based on wrong appreciation of the evidence on record, thus liable to quashed and set-aside. He also contended that the learned Reference court had not appreciated the evidence in its right and true perspective. Lastly, he prayed that the appeal preferred by the appellant/State be allowed and the impugned award be set-aside.

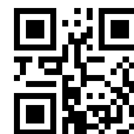
9. As per the settled principle of law, compensation for the land acquired has to be determined at market value. Market value is the price that a willing purchaser would pay



to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. The determination of market value is the prediction of an economic event viz. a price outcome of hypothetical sale expressed in terms of probabilities. For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality.

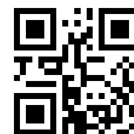
10. In ***Mehta Ravindrarai Ajitrai (deceased) through his heirs & LRs & others v. State of Gujarat (1989) 4 SCC 250,*** the Hon'ble Supreme Court held that the market value of a property for the purpose of Section 23 of the Act is the price at which the property changes hands from a willing seller to a willing purchaser, but not too anxious a buyer, dealing at arms length. The relevant portion of the aforesaid judgment reads as under:

> ***"4. ....The market value of a piece of property for purpose of Section 23 of the Land Acquisition Act is stated to be the price at which the property changes hands from a willing seller to a willing, but not too***



> ***anxious a buyer, dealing at arms length. Prices fetched for similar lands with similar advantages and potentialities under bona fide transactions of sale at or about the time of the preliminary notification are the usual and, indeed the best, evidences of market value."***

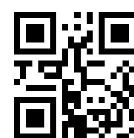
11. In ***Atma Singh (Dead) through LRs & others vs. State of Haryana & another, (2008) 2 Supreme Court Cases 568,*** the Hon'ble Supreme Court held that the market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing conditions with all its existing advantages and its potential possibilities when led out in most advantages manner, excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value, disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The question whether a land has potential value or not, is primarily one of the facts depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like, water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration. The relevant portion of the aforesaid



judgment reads as under:

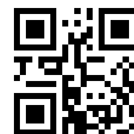
> ***"4.** ……The expression "market value" has been the subject-matter of consideration by this Court in several cases. The market value is the price that a willing purchaser would pay to a willing seller for the property having due regard to its existing condition with all its existing advantages and its potential possibilities when led out in most advantageous manner excluding any advantage due to carrying out of the scheme for which the property is compulsorily acquired. In considering market value disinclination of the vendor to part with his land and the urgent necessity of the purchaser to buy should be disregarded. The guiding star would be the conduct of hypothetical willing vendor who would offer the land and a purchaser in normal human conduct would be willing to buy as a prudent purchaser in normal human conduct would be willing to buy as a prudent man in normal market conditions but not an anxious dealing at arm's length nor façade of sale nor fictitious sale brought about in quick succession or otherwise to inflate the market value…………*
>
> ***5.** For ascertaining the market value of the land, the potentiality of the acquired land should also be taken into consideration. Potentiality means capacity or possibility for changing or developing into state of actuality. It is well settled that market value of a property has to be determined having due regard to its existing condition with all its existing advantages and its potential possibility when led out in its most advantageous manner. The question whether a land has potential value or not, is primarily one of fact depending upon its condition, situation, user to which it is put or is reasonably capable of being put and proximity to residential, commercial or industrial areas or institutions. The existing amenities like water, electricity, possibility of their further extension, whether near about town is developing or has prospect of development have to be taken into consideration…………"*

12. For ascertaining market value of the acquired land, the Court can no doubt rely upon such sale transactions, which would offer a reasonable basis to fix the



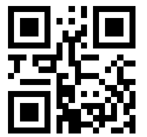
price, for which purpose, a sale transaction relating to a smaller parcel of land can be considered for the purpose of assessing the market value in respect of a large tract of land, after making appropriate deductions such as for development of land, for providing space for roads, sewers, drains, expenses involved in formation of a layout, lump- sum payments, as well as for the waiting period required for selling the sites that would be formed and other expenses involved therein, but before doing so, the evidentiary value of such a sale deed is required to be carefully scrutinized. As held in the case of ***Land Acquisition Officer vs. Nookala Rajamallu reported as (2003) 12 SCC 334,*** in order to adopt the price reflected in the sale deed, the following conditions are required to be met:

> ***"9. It can be broadly stated that the element of speculation is reduced to a 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***
> ***10. It is only when these factors are present, it can merit a consideration as a comparable case (see Special Land Acquisition Officer v. T. Adinarayan Setty AIR 1959 SC 429)."***



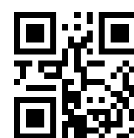
13. In ***Union of India vs. Pramod Gupta (dead) by LRs & others, 2005 (12) SCC 1,*** the Hon'ble Supreme Court held that the best method, as is well-known, would be the amount which a willing purchaser would pay to the owner of the land. In the absence of any direct evidence, the Court, however, may take recourse to various other known methods. Evidence admissible therefor inter alia would be the sale deeds, judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment/award in the absence of any other evidence like deed of sale, report of the expert and other relevant evidence would have only evidentiary value. The relevant portion of the aforesaid judgment reads as under:

> ***"24. While determining the amount of compensation payable in respect of the lands acquired by the State, the market value therefor indisputably has to be ascertained. There exist different modes therefor.***
>
> ***25. The best method, as is well known, would be the amount which a willing purchaser would pay to the owner of the land. In absence of any direct evidence, the court, however, may take recourse to various other known methods. Evidences admissible therefor inter alia would be judgments and awards passed in respect of acquisitions of lands made in the same village and/or neighboring villages. Such a judgment and award, in the absence of any other evidence like the deed of sale, report of the expert and other relevant evidence would have only evidentiary value."***



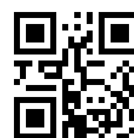
14. The petitioners/claimants examined four witnesses. Shri Anand Mehta, one of the petitioners, appeared in the witness-box as PW-1. As per this witness, the land was acquired for construction of Marthu-Tharola Road and due to such acquisition their land had been divided into two parts. There were 20 apple trees on the acquired land and in addition, the petitioners used to grow vegetables, as the land was irrigated. PW-2 Shri Vijay Singh, the then Patwari, proved one year average, Ex. PW-2/A. As per this witness, Up Mohal, wherein the acquired land was situated was adjoining Chak Gohar and Kotkhai and distance of Kotkhai from village of the petitioners was stated to be 15 kms. This witness did not know the prevailing rates in the area in the year 1971-72 and in the year 1980-85. However, he admitted that Pujarli Chak was adjoining to the Patwar Circle, Tharola. He admitted the rate, as shown in Ex. PW-2/A, pertained to the year 2014-15.

15. Shri Mohi Ram, appeared in the witness-box as PW-3 and deposed that Kathandri Chak was adjoining to Kotkhai and on 03.03.2010 a sale deed was executed, whereby land was sold at the rate of Rs.791.11/- per centare.



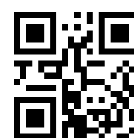
As per this witness, adjoining to Davndri Chak, Gehar Chak was situated, where, on 04.06.2010 a sale deed was executed. He further deposed that the average value of the land described as *bakhal aval* was at the rate of Rs.2217.39/- per centare. He also deposed that the village of the petitioners was situated at a distance of about 14-15 kms. PW-4 Shri Mohan Lal deposed that the acquired land was situated in village Kathandri and there was an apple orchard on the same and due to construction of the road the orchard was damaged. As per this witness, apart from the apple orchard, the petitioners used to sow vegetables and paddy crops etc on the acquired land and the land was irrigated. He too deposed that due to the acquisition of the land, the land of the petitioners was divided into two parts.

16. The onus is upon the petitioner/claimant to prove the true and correct market value of the land at the time of the issuance of the notification under Section 4 of the Act. They are expected to lead cogent and satisfactory evidence in support of their claim. In ***Special Land Acquisition Officer vs. Karigowda & others, (2010) 5 SCC 708,*** it has been held that the onus to prove entitlement to receive



higher compensation is upon the claimants but it cannot be said that there is no onus whatsoever upon the State in such reference proceedings. The court cannot lose sight of the facts and clear position of documents, that obligation to pay fair compensation is on the State in its absolute terms. The relevant portion of the aforesaid judgment reads as under:

> ***"29. It is a settled principle of law that the onus to prove entitlement to receive higher compensation is upon the claimants. In Basant Kumar v. Union of India [(1996) 11 SCC 542] this Court held that the claimants are expected to lead cogent and proper evidence in support of their claim. Onus primarily is on the claimants, which they can discharge while placing and proving on record sale instances and/or such other evidences as they deem proper, keeping in mind the method of computation for awarding of compensation which they rely upon. In this very case, this Court stated the principles of awarding compensation and placed the matter beyond ambiguity, while also capsulating the factors regulating the discretion of the Court while awarding the compensation. This principle was reiterated by this Court even in Gafar v. Moradabad Development Authority [(2007) 7 SCC 614] and the Court held as under: (SCC p. 620, para 12)***
>
> > ***"12. As held by this Court in various decisions, the burden is on the claimants to establish that the amounts awarded to them by the Land Acquisition Officer are inadequate and that they are entitled to more. That burden had to be discharged by the claimants and only if the initial burden in that behalf was discharged, the burden shifted to the State to justify the award."***
>
> ***Thus, the onus being primarily upon the claimants, they are expected to lead evidence to revert the same, if they so desire. In other words, it cannot be said that there is no onus whatsoever upon the State in such reference proceedings. The court cannot lose sight of the facts and clear***

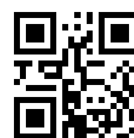


> ***position of documents, that obligation to pay fair compensation is on the State in its absolute terms. Every case has to be examined on its own facts and the courts are expected to scrutinise the evidence led by the parties in such proceedings."***

17. The respondents, in order to prove their case, neither examined any witness nor placed on record any documentary evidence.

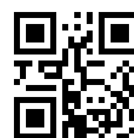
18. Thus, there is only one sale deed placed on record by the petitioners, which is Ex. PG. The perusal of the sale deed Ex.PG shows that it pertained to village Gehar, Tehsil Kotkhai, whereas the acquired land was situated in Up Mohal Dvandri May Kathandri. In the sale deed, Ex. PG, the land was measuring 304.50 square decimeters and it was sold at the rate of Rs.4,00,000/-.

19. Now, the only question before this Court is as to whether the rates, as mentioned in sale deed, Ex. PG, can be made basis for determining the market value of the acquired land. Sale deed, Ex. PG, shows that the land therein was also situated in the same Tehsil where the acquired land was situated and it was executed about two months prior to the date of issuance of the notification under Section 4 of the Act. Thus, the rates of sale transaction, as



proved from Ex. PG, can be made basis for determining the market value of the acquired land and the learned Reference Court had rightly made sale deed, Ex. PG, basis for ascertaining the market value of the acquired land.

20. The learned Senior Counsel for the appellants (petitioners/claimants) contended that vide sale-deed, Ex. PG, land measuring 304.50 square decimeters was sold at the rate of Rs.4,00,000/-, i.e., Rs.1313/- per centare, however, while assessing the market value @ Rs.1000/- per centare, the learned Reference Court had not assigned any reason and logic for taking Rs.1000/- per centare. He further contended that since the land was acquired for the purpose of construction of Marathu Tharola Road, as such, no deduction was permissible. This contention of the learned Senior Counsel for the petitioners/claimants is not devoid of any force. Although, the learned Reference Court, had relied upon sale deed, Ex.PG, wherein the land was sold for Rs.1313/- per centare, but despite that the learned Reference Court had made deduction and awarded a sum of Rs.1000/- per centare without assigning any cogent reason. This approach of the learned Reference Court, in making

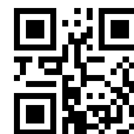


deduction, is contrary to the law, as it is a settled law that no deduction will be permissible where the land is acquired for the purpose of construction of the road and for laying railway line etc.. In ***The Land Acquisition Collector vs. Bangalu @ Daulat Ram, 2025 (1) Shimla Law Cases 146,*** this Court has held as under:

> ***14. In Nelson Fernandes & others vs. Special Land Acquisition Officer, South Goa & others, (2007) 9 Supreme Court Cases 447, while dealing with the case where the land was acquired for laying a railway line, the Hon'ble Apex Court held that no deduction by way of development charges was permissible, as there was no question of any development thereof. The relevant portion of the judgment (supra) is as under:***
>
> > ***"30. ... ... that where lands are acquired for specific purposes, deduction by way of development charges is permissible. In the instant case, acquisition is for laying a railway line. Therefore, the question of development thereof would not arise."***
>
> ***15. Thus, the contention of learned Deputy Advocate General cannot be upheld for the reasons firstly, that no deduction will be permissible keeping in view the purpose of acquisition involved in the instant appeals, secondly, every inch of acquired land was put to the same use for which it was acquired."***

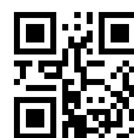
21. Since in the instant case also the land was acquired for the purpose of construction of Marathu Tharola Road, no deduction was permissible. Hence, the market value of the acquired land is assessed @ Rs.1313/- per centare in terms of sale deed, Ex. PG.

22. The learned Deputy Advocate General for the State contended that the learned Reference Court has erred



in awarding uniform rate for the entire land by ignoring the classification and nature of the land. However, this contention of the learned Deputy Advocate General is devoid of any force. It is a settled law that where the entire area is similarly situated, the value of the land under acquisition is to be assessed as a single unit irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter. In ***Gulabi & etc. vs. State of H.P., AIR 1998 HP 9***, it has been held as under:

> ***"As a result of this discussion it is held that the market value of the land on the date of acquisition is Rs.4,000/- per biswa. In this context it is further held that the value of the land under acquisition is to be assessed irrespective of its classification and nature ignoring the purpose to which it was being put prior to the acquisition, as well as to the one it is likely to be put thereafter, Consequently, the appellants are held entitled to compensation at the rate of Rs. 4,000/- per biswa uniformally for all qualities of land and it is ordered accordingly. In taking this view, we are guided by the judgment of the Hon"ble Apex Court reported in Bhagwathula Samanna and others Vs. Special Tahsildar and Land Acquisition Officer, Visakhapatnam Municipality, and the relevant abstracts from the said judgment are as under (paras 7, 11, 13):--***
>
> > ***"In awarding compensation in acquisition proceedings, the Court has necessarily to determine the market value of the land as on the date of the relevant Notification. It is useful to consider the value paid for similar land at the material time under genuine transactions. The market value envisages the price which a willing purchaser may pay under bona fide transfer to a willing seller. The land value can differ depending upon the extent and nature of the land sold. A fully developed small plot in a important locality may fetch a higher value than a larger area in an undeveloped condition and situated in a remote locality. By comparing the price shown in the transactions all variables have to be taken into consideration. The***



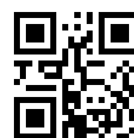
transaction in regard to smaller property cannot, therefore, be taken as a real basis for fixing the compensation for larger tracts of property. In fixing the market value of a large property on the basis of a sale transaction for smaller property, generally a deduction is given taking into consideration the expenses required for development of the larger tract to make smaller plots within that area in order to compare with the small plots dealt with under the sale transaction.

The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition, the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc., then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified.

The proposition that large area of land cannot possibly fetch a price at the same rate at which small plots are sold is not absolute proposition and in given circumstances it would be permissible to take into account the price fetched by the small plots of land. If the larger tract of land because of advantageous position is capable of being used for the purpose for which the smaller plots are used and is also situated in a developed area with little or no requirement of further development, the principle of deduction of the value for purpose of comparison is not warranted.

In the instant case it has been satisfactorily shown on the evidence on record that the land has facilities of road and other amenities and is adjacent to a developed colony and in such circumstances it is possible to utilize the entire area in question as house sites. In respect of the land acquired for the road, the same advantages are available and it did not require any further development. Therefore, no deduction could be made on ground, that large tract of land is required."

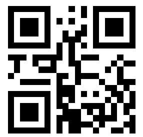
23. In ***Land Acquisition Officer vs. L Kamalamma (1998) 2 SCC 385, H.P. Housing Board vs. Ram Lal &***



others 2003(3) Sim.L.C. 64, Executive Engineer & Anr. vs. Dilla Ram Latest HLJ 2008 (HP) 1007) it was held that when the entire land acquired belongs to one block, classification of the same into different categories is not reasonable. In case acquired land is to be used/developed as a single unit for a purpose having no relevancy with quality of land, the classification of land completely loses its significance.

24. In the case on hand also as the land was acquired as the single unit for the public purpose, i.e., for construction of Marathu Tharola Road, therefore, the value of the land under acquisition is to be assessed as a single unit irrespective of its nature and classification. Therefore, in view of the aforesaid authoritative pronouncements of law, the contention of the learned Deputy Advocate General that the learned Reference Court has erred in awarding uniform rate for the entire land by ignoring the classification and nature of the land deserves to be rejected.

25. Hence, in view of what has been discussed hereinabove, the appeal filed by the petitioners/claimants, i.e., RFA No. 499 of 2015, is allowed and the impugned



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award is modified. The petitioners are held entitled for compensation of their acquired land at the rate of Rs.1313/- per centare, irrespective of the kind and quality of the land. Rest of the terms of the impugned award shall remain the same. The appeal filed by the Land Acquisition Collector & another, i.e., RFA No. 228 of 2016, being devoid of merits, deserves dismissal and is accordingly dismissed.

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

(Sushil Kukreja)
Judge

29th April, 2026
(virender)