

JUDGMENT SHEET

IN THE LAHORE HIGH COURT, RAWALPINDI BENCH,
RAWALPINDI.
JUDICIAL DEPARTMENT.

R.F.A. No.26/2008

Land Acquisition Collector & others.
Versus
Muhammad Nawaz & another.

Date of Hearing	05.10.2016.
Appellants by	Mr. Abid Hussain Ranjha, Advocate.
Respondents by	Sheikh Kamran Shehzad, Advocate.

MUHAMMAD AMEER BHATTI, J:- This Regular First Appeal is directed against the Judgments & decree dated 03.05.2007, passed by the learned Senior Civil Judge, Attock, whereby Reference petition filed by the respondents under Section 18 of the Land Acquisition Act, 1894, stood accepted and the compensation awarded to the respondents was enhanced from Rs.42,106.00 per kanal to Rs.1,50,000.00 per kanal alongwith 15% compulsory acquisition charges.

2. Learned counsel for the appellants has raised only one question to attack the judgment of learned trial Court that the kind of land acquired from the respondents was considered as Null Chahi whereas it was of Maira kind, therefore, the price fixed by the Referee Court was against record of the case.

3. We have examined record of the case, as referred to by the learned counsel for the appellants, who remained unable to substantiate his contention from any document. It is noticed that the learned trial Court after referring to all the evidence and making comparison of several mutations, placed on record by the respondents, reached on just and correct conclusion that rate of land fixed by the appellants was not correct; hence, he rightly enhanced the same according to prevailing market rate of the land. We do not find any misreading, non-reading, illegality or irregularity in the judgment impugned.

4. No other point has been urged by the learned counsel for the appellants. We are not persuaded to interfere with the findings recorded by the learned Referee Court, as the same are in consonance with the law laid down by apex Court in a case reported as Land Acquisition Collector, BOR Punjab vs. Syed Haroon Iftikhar and others (2014 SCMR 659) and Land Acquisition Collector, G.S.C., N.T.D.C., (WAPDA), Lahore and another vs. Mst. Surraya Mehmood Jan (2015 SCMR 28). In the latter landmark judgment, it has been held:-

“The principles that can be gleaned from the aforesaid judicial precedents are that the term “market-value” as employed in section 23 of the Act of 1894 implies the price that a willing purchaser would pay to a willing buyer in an open market arm’s length transaction entered into without any compulsion. Such determination must be objective rather than subjective.

While undertaking this exercise, contemporaneous transactions of the same, adjoining or adjacent as well as the land in the same vicinity or locality; in dissenting precedents, may be taken into account. An award of compensation of a similar, adjacent, adjoining land or in respect of the land acquired in the same vicinity or locality cannot be ignored. The classification of the land in the Revenue Record cannot be the sole criteria for determining its value and its potential i.e. the use of which the said land can be put, must also be a factor. In this behalf, the use of the land in its vicinity needs to be examined.”

Resultantly, this appeal being devoid of merit stands dismissed.

**(ATIR MAHMOOD)
JUDGE.**

**(MUHAMMAD AMEER BHATTI)
JUDGE.**

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