

JUDGMENT SHEET

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

R.F.A. No.27/2008

Land Acquisition Collector and another.
Versus
Anis-ur-Rehman.

Date of Hearing	05.10.2016.
Appellants by	Mr. Abid Hussain Ranjha, Advocate.
Respondents by	Mr. Muhammad Shoaib Abbasi, Advocate.

MUHAMMAD AMEER BHATTI, J:- This Regular First Appeal is directed against the Judgments & decree dated 16.01.2007, 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.

2. The contention of the learned counsel for the appellants is that while enhancing the compensation, the mutations pertaining to the year 2001 had been taken into consideration, which were mutated after issuance of Notification under Section 4 of the Act, 1894, therefore, the criteria for determining compensation adopted by the learned trial Court, was not sustainable in the eye of law inasmuch as the mutation of

previous one year could be considered for assessing price of the land.

3. We have heard the learned counsel for the parties and examined record of the case. The law on this point is set at rest by the honourable Supreme Court that not only the market value at the time of Notification under Section 4 of the Act, 1894 shall be considered but also the potential value must also be kept in view, therefore, the learned Referee Court has not committed any illegality and irregularity while considering the mutations sanctioned after issuance of Notification under Section 4 *ibid*, which could only be the yardstick for assessing the potential value of respondent's land acquired by the appellants. It is also considered by the learned trial Court that aforesaid Notification was issued in the year 2000 whereas Award was announced after four years i.e. in the year 2004. Therefore, we do not find any illegality and irregularity in the judgment passed by the learned Referee Court whereby it enhanced compensation of the acquired land. The argument advanced by the learned counsel for the appellants has no force.

4. 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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