

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Mr. Justice Shakeel Ahmad

Mr. Justice Aamer Farooq

Civil Appeals No. 119-L of 2022 & 3952 of 2022.

(Against judgments dated 20.09.2022 passed by the Lahore High Court, Lahore in RFAs No. 77386 and 54663 of 2021.)

Province of Punjab through District
Collector/ District Officer (Rev), Lahore &
others

(in CA No. 119-L/ 2022)

Malik Abdul Latif Amar

(in CA No. 3952/2022)

... Appellant(s)

Versus

Malik Abdul Latif Amar

(in CA No. 119-L of 2022)

Land Acquisition Collector Highway
Department, Lahore & others

(in CA No. 3952/2022).

...Respondent(s)

For the Appellant(s) : Mr. Khalid Masood Ghani, Asst
AG, Pb.
*(in CA No. 119-L/2022, as well as for the
respondents in CA No. 3952/2022)*
alongwith Zakir Shah, Sr. Law
Officer, CNW.

For the respondent(s) : Syed Iqbal Hussain Gillani, ASC
*(in CA No. 119-L/2022 as well as for the
appellant in CA No. 3952/2022) (via VL
from Lahore)*

Date of Hearing : 06.03.2025.

JUDGMENT

Shakeel Ahmad, J.- This judgment shall decide the above-titled appeals, as both of them have arisen out of the same judgments of the Courts below and the Award under the Land Acquisition Act, 1894 ("***the Act***").

2. Precisely stated the facts of the case are that Malik Abdul Latif Amir (hereinafter referred to as the "***Respondent***"), purchased a 5 Kanal plot of land, including a Benola Factory and Godown, bearing Khasra No. 751, Tehsil City, District Lahore, in 2004. In 2006, the Punjab Highway Department announced plans to construct an overhead bridge on Raiwind Sui-e-Asal Road,

issuing two notifications: one under Section 4 of the Act on 24.01.2006 and another under Sections 6 and 17(4) on 24.12.2009 of the same Act. Based on these notifications, Award No. 1/2010 was issued by the Appellants on 24.06.2010, granting the Respondent compensation at the rate of Rs. 50,000/-. The Respondent challenged the compensation awarded, leading to a judgment by the learned Senior Civil Judge, Lahore, (***“Referee Court”***), who set aside Award No. 1/2010 and determined that the Respondent was entitled to Rs. 210,000/- per marla, alongwith compensation for the superstructure, disturbance, and shifting allowance. Both parties, being aggrieved with the said judgment, preferred separate appeals before the Lahore High Court, Lahore, which were dismissed vide impugned judgment dated 20.09.2022. Hence, these appeals.

3. Heard both sides and record perused.

4. A perusal of the record reflects that being aggrieved by the judgment and decree dated 25.05.2021 passed by the learned Referee Court, the Province of Punjab through District Collector & others (hereinafter referred to as the ***“Appellants”***) filed RFA No. 77386 before the Lahore High Court, Lahore on 06.09.2021. However, the said appeal was returned by the office with objections, characterised as an *‘incomplete case’*, with a direction to rectify and re-submit the same within three days. It is an admitted position that the objections were not addressed within the stipulated time and the appeal was re-submitted after the removal of the objection on 09.12.2021, well beyond the period prescribed for removing the objection. Accordingly, the High Court while rightly placing reliance on *“Asad Ali & Others vs. The Bank of Punjab & Others”* (**PLD 2020 SC 736**) held the appeal to be

time-barred as the Appellants failed to remove the deficiencies pointed out by the office within the period prescribed. When confronted with these legal and factual aspects of the case, the learned counsel failed to furnish a satisfactory response.

5. As regards the appeal filed by the Respondent for further enhancement of the compensation, we find from the record that the material issues in the present case are issues No. 1 & 2, which are reproduced herein below:-

1. *Whether the acquired land of the petitioner was of high value being commercial in nature and the compensation awarded to him is inadequate?*
2. *Whether the petitioner is entitled to enhanced compensation on the grounds mentioned in the reference?*

The learned Referee Court decided both issues jointly, as is evident from para-15 of its judgment and upon due appraisal of the evidence available on record, both issues were decided in favour of the Respondent/Affectee.

6. It is by now settled that the most important aspect *qua* the lands compulsorily acquired is that the mandatory returns proposed to be given to the land owner is the 'compensation' and not merely the market value of such land. In this regard, it is noteworthy, as held by this Court in "*Land Acquisition Collector & Others v. Mst Iqbal Begum & Other*" (**PLD 2010 SC 719**) that compensation should be '*gold for gold*' and not '*copper for gold*'. A perusal of Section 23 of the Act reflects that various factors are to be taken under consideration while determining compensation,

with market value being just one such factor as reiterated in "*The Province of Sindh v. Ramzan and Other*" (**PLD 2004 SC 512**). Furthermore, it is pertinent to note that compensation is a very wide term, indicating that the land owners, for various reasons, are to be compensated and not merely paid the price of the land which is just an interaction of supply and demand fixed between a willing buyer and a willing seller. Additionally, although, mere classification or nature of land, can be taken as a relevant consideration for the purposes of determining compensation, it is not an absolute one. Factors such as location, neighbourhood, potentiality or other benefits could not be disregarded either. Indeed, the place and situation of the acquired land are paramount considerations that must be accorded due and thoughtful attention in the fair assessment of compensation.

7. The learned Referee Court, while assessing the compensation placed reliance on Ex.P1, which reflects that the value of the acquired land was Rs. 200,000/- per marla. The Courts below also observed that Ex.P2 to Ex.P5 reflect an increase in the prices of land. Thus, keeping in view these legal and factual aspects of the case, the learned Referee Court rightly enhanced the compensation from Rs.50,000/- per marla to Rs.210,000/- per marla. In this regard, reference may be made to the case reported as "*Malik Aman & Others v. Land Acquisition Collector & Others*" (**PLD 1988 SC 32**) wherein this Court had explained the concept of 'potential value' and differentiated it from the term 'market value'. It was held that market value was normally to be taken as the one existing on the date of notification under Section 4 (1) of the Act, based on the principle of a willing buyer and a willing seller. In contrast, the potential value was

explained to be one to which similar lands could be put to any use in future. Furthermore, factors for determining the compensation of the land are not restricted only to the time of the notification, but, can also relate to the period in future, and that is why in a large number of cases the potential value has been held to be a relevant factor. In this regard, reliance may also be placed on the judgments reported as "*Fazalur Rahman & Others v. General Manager, SIDB & Another*" (PLD 1986 SC 158) and "*NWFP through Collector, Abbottabad Land Acquisition & Others v. Haji Ali Asghar Khan & Others*" (1985 SCMR 767).

8. We also take notice of the fact that, in the present case, the notification under Section 4 of the Act was issued on 24.01.2006, followed by notifications under Sections 6 and 17(4) on 24.12.2009 and in pursuance thereof, Award No. 1/2010 was announced on 24.06.2010 by the Appellant. Under the said award, the Respondent was awarded compensation at the rate of Rs. 50,000/- per marla alongwith 15% compulsory charges amounting to a total sum of Rs. 4,063,950/- compensation for the Factory and Godown, situated on the main Lahore-Raiwind Road.

9. It is also noteworthy that there is an unreasonable delay of four years in the announcement of the Award and issuance of notification under Section 4 of the Act. Obviously, any escalation in the value of the property during such period constitutes the potential value of the land, which was rightly taken into consideration by the Courts below while determining the compensation. In this context, reliance can be placed on the case reported as "*Land Acquisition Collector Abbottabad & others v. Muhammad Iqbal & others*" (1992 SCMR 1245). A similar view was taken in the case reported as "*Pakistan Burmah Shell Ltd. v.*

Province of NWFP & 3 Others" (1993 SCMR 1700) wherein it was once again reiterated that consideration of market value at the time of the notification and Section 4 of the Act was merely one of the modes for assessing the market value and not the yardstick for assessment of compensation. Numerous matters to be considered for determining compensation were elaborately laid down by this Court in *Murad Khan's case (1999 SCMR 1647)* followed by the judgment reported as "*Nisar Ahmad Khan & Others v. Collector Land Acquisition, Swabi & Others*" **(PLD 2002 SC 25)**.

10. In our view, the compensation assessed and determined by the Referee Court in the instant case was just and reasonable as the Court had adverted to every aspect of the case and advanced valid and cogent reasons in support of its findings.

11. For the foregoing reasons, Civil Appeal bearing No. 119-L of 2022 stands dismissed. Moreover, Civil Appeal No. 3952 of 2022, filed by the Respondent, is also barred by 19 days, and no plausible explanation has been given in the application for condonation of delay, therefore, the same is also dismissed being hopelessly time-barred as well as on merit. No order as to costs.

Judge

Judge

Islamabad
06.03.2025
Zia/ Rameen, LC

Approved for Reporting