

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No.1572 of 2019  
[ Arising out of S.L.P. (Civil) No. 29623 of 2016 ]**

**MAHANTI DEVI**

**.... Appellant**

*Versus*

**M/S JAIPRAKASH ASSOCIATES LTD. & ANR.**

**....Respondents**

**WITH**

**CIVIL APPEAL No.1573 of 2019  
[ Arising out of S.L.P. (Civil) No. 29626 of 2016 ]**

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

Leave granted.

**1.** A notification was issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') on 11.04.2005 for acquiring land measuring 720-18 bighas and 95-4 bighas for the Himachal Cement Project (a unit of M/s Jaiprakash Associates Ltd.) in the villages Baga and Karog, Tehsil Arki, District Solan, Himachal Pradesh. The said notification was published on 12.04.2005. An award was passed on 27.01.2006. Compensation was computed

by the Land Acquisition Collector at the rate of Rs.2,10,000/- per bigha for cultivated land and Rs.40,369/- per bigha for uncultivated land. In the reference filed under Section 18 of the Act, the Appellants were held entitled for compensation at the rate of Rs.5 lakh per bigha. The sale deeds which were executed in 2004, i.e., one year prior to the issuance of the notification under Section 4 of the Act were brought on record. According to the well-established law as laid down by this Court, the sale deed representing the highest market value was taken into account by the Reference Court for the purpose of computing the compensation. Exhibit PW2/A pertained to sale of 2 biswas of land for Rs.1,20,000/- as per which the market value of one bigha would be Rs.12 lakhs. In view of the said sale deed pertaining to a small piece of land, the Reference Court imposed a deduction of 60% of the value of the land in Exhibit PW2/A and concluded that the Appellants are entitled for compensation at the rate of Rs.5 lakhs per bigha.

**2.** It is clear from a perusal of the judgment of the High Court of Himachal Pradesh which heard the appeals filed by the Respondent and the cross-objections filed by the Appellants, that the logic followed by the Reference Court

was adopted and the compensation of Rs.5 lakhs per bigha was maintained. There was no detailed discussion either by the Reference Court or the Appellate Court by taking into account the relevant factors for making a deduction of 60% from the market value of a sale deed which was executed.

**3.** It was held by this Court in *Viluben Jhalejar Contractor v. State of Gujarat*<sup>1</sup> as under:-

“20. The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-à-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under:

<b>Positive factors</b>	<b>Negative factors</b>
(i) smallness of size	(i) largeness of area
(ii) proximity to a road	(ii) situation in the interior at a distance from the road
(iii) frontage on a road	(iii) narrow strip of land with very small frontage compared to depth
(iv) nearness to developed area	(iv) lower level requiring the depressed portion to be filled up
(v) regular shape	(v) remoteness from developed locality
(vi) level vis-à-vis land under acquisition	(vi) some special disadvantageous factors which would deter a purchaser
(vii) special value for an owner of an adjoining property to whom it may have some very special advantage”.	

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<sup>1</sup> (2005) 4 SCC 789 p 797

4. We are informed by the learned counsel that a large number of cases pertaining to the acquisition in issue in this case are pending before the High Court and the Reference Court.

5. We deem it proper to remit these matters to the High Court by setting aside the judgment in RFA No.178 of 2013 for a fresh consideration on the justifiability of imposition of 60% deduction on the market value, while computing the compensation to be paid to the Appellants. The High Court would be well advised to take into account the principles laid down by this Court for the purpose of deductions to be made on the market value.

6. The appeals are disposed of.

.....J.  
**[L. NAGESWARA RAO]**

.....J.  
**[M.R. SHAH]**

**New Delhi,  
February 08, 2019**