

SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:

Mohammad Azam Khan, C.J.
Raja Saeed Akram Khan, J.

1. Civil Review No.30 of 2016
(Filed on 30-12-2016)
2. Civil Review No.31 of 2016
(Filed on 30-12-2016)

WAPDA through Legal Advisor WAPDA/Director (Legal)
WAPDA, WAPDA House Lahore (Authorised).

.... APPELLANT

v e r s u s

1. Khadim Hussain,
2. Noor Hussain,
3. Sodagar Hussain Ss/o Fazal Din,
4. Mohammad Ejaz,
5. Mohammad Sarfraz Ss/o Fazal Din,
6. Jannat Bibi,
7. Raj Begum, daughters of Sher Alam,
8. Mohammad Sabeel,
9. Mohammad Jamil, sons of Ghulam Rasool,
10. Mohammad Rasheed,
11. Mohammad Hanif,
12. Mohammad Nazir, sons of Sher Alam,
13. Manzoor Hussain s/o Khushi Muhammad,
14. Javaid Iqbal, son;
15. Noreen Kausar, daughter of Ibrahim,
16. Mehmood Akbar, son,
17. Ghulam Fatima,

18. Ghulam Sughra, daughters of Ibrahim Ali, caste Bains Rajput r/o Chak Hariyam, Tehsil & District Mirpur.

..... RESPONDENTS

19. Collector Land Acquisition, Mangla Dam Rising Project, Mirpur.

20. Azad Government of the State of Jammu & Kashmir through its Chief Secretary, Muzaffarabad.

..... PROFORMA RESPONDENTS

3. Civil Review No.32 of 2016
(Filed on 30-12-2016)

4. Civil Review No.33 of 2016
(Filed on 30-12-2016)

WAPDA through Legal Advisor WAPDA/Director (Legal)
WAPDA, WAPDA House Lahore (Authorised).

.... APPELLANT

v e r s u s

21. Khadim Hussain s/o Fazal Din caste Bains Rajput r/o Chak Hariyam, Tehsil & District Mirpur.

..... RESPONDENT

22. Collector Land Acquisition, Mangla Dam Rising Project, Mirpur.

23. Azad Government of the State of Jammu & Kashmir through its Chief Secretary, Muzaffarabad.

..... PROFORMA RESPONDENTS

[In the matter of review the judgment of this Court,
dated 30.11.2016 in Civil Appeals No.233 & 234 of
2015 and 28 & 32 of 2016]

FOR THE PETITIONER: Ch. Liaquat Afzal,
Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal,
Advocate.

Date of hearing: 26.1.2017

JUDGMENT:

Mohammad Azam Khan, C.J.—The titled four review petitions arise out of the consolidated judgment of this Court delivered in Civil Appeals No.233 & 235 of 2015 and 28 & 31 of 2016, on 30th November, 2016. The appeals were disposed of through a single judgment and identical question of law is involved in all the petitions, therefore, these are being disposed of through single judgment.

2. The background of the review petitions is that the land of the respondents was acquired by the Collector Land Acquisition, Mangla Dam Raising Project, Mirpur, through Award No.118/2007, drawn on 10.11.2007. Dissatisfied from the compensation amount, the interested persons/land owners filed reference application before the Collector, which were

entrusted to the Reference Judge, Mirpur. The Reference Judge answered the references in affirmative and enhanced the compensation amount. Further appeals were filed in the High Court and the High Court also enhanced the compensation amount. Three appeals were filed by the land owners and one was filed by the WAPDA, which were disposed of through the consolidated judgment under review.

3. Ch. Liaquat Afzal, advocate, counsel for the petitioner, argued that while delivering the judgment, the Court has awarded the compensation to the respondents while relying upon the sale-deeds, Ex.PD, PE and PF. The learned counsel submitted that there is an error of calculation. The average price of three sale-deeds comes to Rs.24,31,111/- per kanal, while the Court has calculated the average price of three sale-deeds as Rs.32,52,000/- per kanal. The learned counsel submitted that in para 7 of the concise statement, the appellants also calculated the price as Rs.24,31,111/- per kanal. The learned counsel further submitted that some sale-deeds, registered prior to the issuance of

notification under section 4, were part of the record, which have not been considered by the Court, which is also an error apparent on the face of record and review is also permissible on this ground.

4. While controverting the arguments, Ch. Muhammad Afzal, advocate, counsel for the respondents, submitted that there is no error apparent on the face of record. No ground for review is made out. The review petition merits dismissal.

5. We have heard the learned counsel for the parties and perused the record with utmost care.

6. At pages 48 and 49 of the judgment under review, it was observed as under:-

“Thus, we drew the conclusion that the land owners proved from cogent and reliable evidence that their land is precious one, situated within the municipal limits, has potential to be utilized for commercial purpose in future, it is situated on the main road and a matelled road passes through the land, has high potential to be put to the agriculture purposes, is being utilized as orchard and for growing the vegetables. No sale-deed has been executed in the village during the last many years. The land owners own very

small pieces of holdings and they have reserved the land for residential purpose. The Collector himself observed that the pole are not ready to sell the land and if anybody desires to sell the land, the people are ready to purchase the same at any price which some else demands. The Reference Judge as well as the High Court without any justification failed to rely upon the sale-deeds of adjacent village Islamgarh. The appellants are entitled for the compensation in the light of sale-deeds annexure “PD”, “PE” and “PF”. The sale-deed Ex. “PG/1” cannot be considered because it was registered after a period of around 6 months of drawing of the award. The average price of the sale-deeds annexure “PD”, “PE” and “PF” comes to Rs.32,52,000/- per kanal.”

It is evident from the above referred para that the compensation has been awarded on the basis of report of the Collector Land Acquisition and while considering the sale-deed, annexure “PD”, “PE” and “PF”. The detail of sale-deeds is as under:-

S.No.	Ex.	Date of Sale-deeds	Quantity of Land in Marlas	Value of Sale-Deeds	Rate of land per Marla	Rate of the land per kanal
1	2	3	4	5	6	7
1.	PD	07.02.2006	32	Rs.34,56,000	Rs.1,08,000	Rs.21,60,000
2.	PE	29.11.2007	18	Rs.21,00,000	Rs.1,16,667	Rs.23,33,333
3.	PF	05.07.2006	30	Rs.42,00,000/-	Rs.1,40,000	Rs.28,00,000
			TOTAL:	Rs.97,56,000		Rs.72,93,333
					Average per kanal:	Rs.24,31,111

Thus, the average price of sale-deeds annexure “PD”, “PE” and “PF”, comes to Rs.24,31,111/- per kanal and

not Rs.32,52,000/- per kanal. From the record there appears an error of calculation, therefore, the review petition is finally disposed of.

7. We have also considered the argument of the counsel for the petitioner that some other sale-deeds, which were registered prior to the issuance of notification under section 4, have not been considered. The point was not argued at the time of arguments in the original appeal, nor any sale-deed is part of the record.

Thus, we draw the conclusion that there is an error of calculation of average price of land in the judgment under review. The respondents-land owners are entitled for the compensation @ Rs.24,31,111/- per kanal. The judgment is reviewed and the decree is amended in the terms indicated above. There will be no order as to the costs.

CHIEF JUSTICE

Mirpur
26.1.2017

JUDGE