

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
[Appellate Jurisdiction]

**PRESENT:**

Ch. Muhammad Ibrahim Zia, C.J.  
Ghulam Mustafa Mughal, J.

1. Civil Appeal No. 77 of 2018  
(PLA Filed on 17.5.2018)

Muhammad Imran s/o Muhammad Sdique,  
caste Jat r/o village Sanwala Gorah, Tehsil and  
District Mirpur.

.... APPELLANT

**VERSUS**

1. Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone 1.
2. WAPDA through Superintending Engineer (Resettlement) Mangla Dam Raising Project Mirpur.
3. WAPDA Department through Chief Engineer WAPDA Mangla Mirpur.
4. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.

..... RESPONDENTS

(On appeal from the judgment of the High Court dated  
19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of  
2010)

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FOR THE APPELLANT: Ch. Muhammad Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Liaqat Afzal, Advocate.

2. Civil Appeal No. 84 of 2018  
(PLA Filed on 17.5.2018)

WAPDA through Legal Advisor/Director Legal  
WAPDA, WAPDA House, Lahore.

.... APPELLANT

**VERSUS**

1. Muhammad Imran s/o Muhammad  
Siddique, caste Jat r/o Sanwla Gorah,  
Tehsil and District, Mirpur.

..... RESPONDENTS

2. Collector Land Acquisition Mangla Dam  
Raising Project, Mirpur Zone 1.

3. Azad Govt. through Chief Secretary, Azad  
Jammu & Kashmir, Muzaffarabad.

.... PROFORMA RESPONDENTS

(On appeal from the judgment of the High Court dated  
19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of  
2010)

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FOR THE APPELLANT: Ch. Liaqat Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal,  
Advocate.

3. Civil Appeal No. 78 of 2018  
(PLA Filed on 17.5.2018)

Muhammad Sadique s/o Satar Muhammad,  
caste Jat r/o village Sanwala Gorah, Tehsil and  
District, Mirpur.

.... APPELLANT

**VERSUS**

1. Collector Land Acquisition Mangla Dam  
Raising Project, Mirpur Zone 1.

2. WAPDA through Superintending Engineer (Resettlement) Mangla Dam Raising Project, Mirpur.
  3. WAPDA Department through Chief Engineer WAPDA Mangla Mirpur.
  4. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.
- ..... RESPONDENTS

(On appeal from the judgment of the High Court dated 19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of 2010)

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FOR THE APPELLANT: Ch. Muhammad Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Liaqat Afzal, Advocate.

4. Civil Appeal No. 82 of 2018  
(PLA Filed on 17.5.2018)

WAPDA through Legal Advisor/ Director Legal  
WAPDA, WAPDA House Lahore.

.... APPELLANT

**VERSUS**

1. Muhammad Siddique s/o Sattar Muhammad, Caste Jatt r/o Sanwla Gorah, Tehsil and District Mirpur.

..... RESPONDENTS

2. Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone 1.
3. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.

....PROFORMA RESPONDENTS.

(On appeal from the judgment of the High Court dated 19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of 2010)

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FOR THE APPELLANT: Ch. Liaqat Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal,  
Advocate.

5. Civil Appeal No. 79 of 2018  
(PLA Filed on 17.5.2018)

Muhammad Usman s/o Muhammad Sadique,  
caste Jat r/o village Sanwala Gorah, Tehsil and  
District, Mirpur.

.... APPELLANT

**VERSUS**

1. Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone 1.
2. WAPDA through Superintending Engineer (Resettlement) Mangla Dam Raising Project, Mirpur.
3. WAPDA Department through Chief Engineer WAPDA Mangla Mirpur.
4. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.

..... RESPONDENTS

(On appeal from the judgment of the High Court dated  
19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of  
2010)

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FOR THE APPELLANT: Ch. Muhammad Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Liaqat Afzal, Advocate.

6. Civil Appeal No. 83 of 2018  
(PLA Filed on 17.5.2018)

WAPDA through Legal Advisor/ Director Legal  
WAPDA, WAPDA House Lahore.

.... APPELLANT

**VERSUS**

1. Muhammad Usman s/o Muhammad Siddique, Caste Jatt r/o Sanwla Gorah, Tehsil and District Mirpur.  
..... RESPONDENTS
2. Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone 1.
3. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.  
....PROFORMA RESPONDENTS.

(On appeal from the judgment of the High Court dated 19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of 2010)

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FOR THE APPELLANT: Ch. Liaqat Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal,  
Advocate.

7. Civil Appeal No. 80 of 2018  
(PLA Filed on 17.5.2018)

Muhammad Kamran s/o Muhammad Sadique, caste Jat r/o village Sanwala Gorah, Tehsil and District, Mirpur.

.... APPELLANT

**VERSUS**

1. Collector Land Acquisition Mangla Dam Raising Project, Mirpur Zone 1.
2. WAPDA through Superintending Engineer (Resettlement) Mangla Dam Raising Project, Mirpur.
3. WAPDA Department through Chief Engineer WAPDA Mangla Mirpur.
4. Azad Govt. through Chief Secretary, Azad Jammu & Kashmir, Muzaffarabad.  
..... RESPONDENTS

(On appeal from the judgment of the High Court dated 19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of 2010)

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FOR THE APPELLANT: Ch. Muhammad Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Liaqat Afzal, Advocate.

8. Civil Appeal No. 81 of 2018  
(PLA Filed on 17.5.2018)

WAPDA through Legal Advisor/ Director Legal  
WAPDA, WAPDA House Lahore.

.... APPELLANT

**VERSUS**

1. Muhammad Kamran s/o Muhammad  
Siddique, Caste Jatt r/o Sanwla Gorah,  
Tehsil and District Mirpur.

..... RESPONDENTS

2. Collector Land Acquisition Mangla Dam  
Raising Project, Mirpur Zone 1.

3. Azad Govt. through Chief Secretary, Azad  
Jammu & Kashmir, Muzaffarabad.

....PROFORMA RESPONDENTS.

(On appeal from the judgment of the High Court dated 19.3.2018 in Civil Appeal No. 445, 446, 447 and 448 of 2010)

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FOR THE APPELLANT: Ch. Liaqat Afzal,  
Advocate.

FOR THE RESPONDENTS: Ch. Muhammad Afzal,  
Advocate.

*Date of hearing:* 21.1.2019

**JUDGMENT:**

***Ghulam Mustafa Mughal, J—*** The captioned appeals arise out of the judgment dated 19.3.2018 passed by the Azad Jammu & Kashmir High Court in civil appeals No. 445, 446, 447 and 448 of 2010. As all the appeals are outcome of one and the same judgment and involve common question of law and facts, hence, were heard together and are decided as such.

2. The facts necessary for disposal of the captioned appeals are that the land owners, appellants, herein, filed different reference applications before the Reference Judge Mangla Dam Raising Project, Mirpur on 13.4.2010. It was averred that the respondents acquired built-up properties of the appellants situated in village Kharak, Tehsil and District Mirpur through Award No. 585/10 dated 20.2.2010 having Code No. M-2985C, M-2985B, M-2985A and M-2939 against a compensation of Rs. 16,84,198/-, Rs.13,52,658/-, 15,68,935/- and Rs. 14,17,404/- respectively, which has been

determined by the Collector Land Acquisition arbitrarily and without taking into consideration the market value. It was further alleged that the compensation of the awarded property should have been assessed according to its market value at the scheduled rates prevailing in 2010, but the Collector Land Acquisition while finalizing the award has ignored the same. It was prayed by the appellants that the prices of the shops may be enhanced to the tune of Rs.4 & 5 million besides 15% compulsory acquisition charges along with profit @ 8% since acquisition of the houses. The respondents contested the references and refuted the claim of the appellants by filing objections. The learned Reference Judge consolidated all the references, framed issues in light of the pleadings of the parties and directed them to lead evidence pro and contra. At the conclusion of the proceedings, the learned Reference Judge while accepting the reference applications has enhanced the compensation amount to the tune



of Rs.2,18,945/-, Rs.1,75,845/-, Rs.2,03,961/- and Rs.1,91,152/- along with 15% CAC vide judgment and decree dated 16.11.2010. Feeling aggrieved from the said judgment and decree the land owners filed separate appeals before the High Court for further enhancement in the compensation. A learned Judge in the High Court after necessary proceedings vide impugned judgment and decree dated 19.3.2018 has accepted the appeals and fixed the compensation of the acquired shops as Rs.1000/- sq. ft. The land owners are still not satisfied with the enhancement made in the compensation by the High Court and filed the instant appeals before this Court for further enhancement in the compensation. The WAPDA has also filed appeals for quashment of the judgment and decree passed by the learned High Court.

3. Ch. Muhammad Afzal, the learned Advocate appearing for the appellants (land owners) argued with vehemence that the built-

up property of the appellants bearing Code Nos. M-2985C, M.2985B, M-2985A and M-2939 was acquired vide award No. 585/2010 dated 20.2.2010 by the Collector Land Acquisition Mangla Dam Raising Project against the compensation in the sum of Rs. 1684198/-, Rs.1352658/-, Rs.1568935/- and Rs.1417404/- respectively. The learned Advocate further argued that the Collector has not determined the compensation of the acquired property of the appellants according to its potential and commercial value and has given a meager amount of compensation. He submitted that it was enjoined upon the Collector to determine the compensation at the schedule prevalent at the time of issue of award but he has determined the compensation on the basis of the rate, which was prevalent in 2005 much prior to the acquisition proceedings. The learned Advocate further argued that very cogent evidence in shape of documentary as well as oral was produced by the appellants in support of

their respective claim but the Courts below have not appreciated the same in accordance with law. The learned Advocate argued that the Courts below have also not considered the agreement of WAPDA with the Azad Government, according to which the market value of the land at the time of issue of the award was to be given. The learned Advocate further argued that though the High Court has given the compensation @ Rs.1000/- per sq. ft. but this was also not correct and adequate keeping in view the construction expenses as well as schedule prevalent in 2010. The learned Advocate argued that this Court has given compensation in various cases @ Rs.1500/- to Rs.2000/- sq. ft. In support of his submission, the learned Advocate has placed reliance on the cases reported as *Shams Shahzad vs. WAPDA & 2 others* (2017 SCR 893) and *Raja Abdul Qayyum Khan vs. Azad Jammu & Kashmir Government through Chief Secretary Muzaffarabad and 2 others* (2015 YLR 2152).

4. Ch. Liaquat Afzal, the learned Advocate appearing for the respondents while controverting the arguments advanced by the learned counsel for the appellants submitted that both the Reference Judge and the High Court have enhanced the compensation without there being any proof and evidence on the record. The learned Advocate argued that the assessment of the acquired houses got prepared through Abdul Ghafoor, contractor, which has no evidentiary value because he is a private person and the same cannot be considered in light of the rule of law laid down in Qurban Hussain's case (2017 SCR 524). The learned Advocate argued that the Collector has determined the compensation on the basis of Building Replacement Cost Valuation (BRCV), which was made by joint team after visiting the spot, therefore, no illegality was committed by the Collector Land Acquisition in determining the compensation of the acquired property.

5. We have heard the learned Advocates representing the parties and have gone through the record of the case. The contention of Ch. Muhammad Afzal, the learned Advocate for the appellants (land owners) that the High Court has not properly enhanced the compensation through the impugned judgment, is devoid of any force. It may be stated that though the Reference Judge has partly accepted the references filed by the appellants (land owners) and enhanced the compensation to the tune of Rs.16,84,891/-, Rs.13,52,658/-, Rs.15,68,935/- and Rs.14,17,404/- respectively, but the learned High Court has taken the notice of commercial and potential nature of the land and has rightly enhanced the compensation as Rs.1000/- sq.ft. Though, the assessment made by a private contractor cannot solely be relied upon and accepted for determination of compensation as has been held in Qurban Hussain's case (2017 SCR 524) but there is other evidence on the record, which is supportive of the claim of the

appellants (land owners). The contention of Ch. Liaquat Afzal, Advocate appearing for the respondents in the cross appeals that the Collector has determined the compensation on the basis of Building replacement Cost Valuation (BRCV), which was made by a joint team for assessment of the compensation, is correct, but this team has determined the compensation at the time of proposed acquisition of the built-up property of the land owners. The process of the acquisition has been completed on 20.2.2010, the date on which the award in question was issued, thus, it was enjoined upon the Collector to consider the value of the property at the time of issue of award. Though, it has been contended by Ch. Muhammad Afzal, the learned Advocate appearing for the land owners that in some cases the compensation has been determined @ Rs.1500/- to Rs.2000/- per sq. ft., but the judgment cannot be made applicable until and unless it is proved that enhancement has been made in the same award and same

evidence has been led by the appellants in this case. Ch. Liaquat Afzal, the learned Advocate appearing for WAPDA has made a statement at bar that he would have no objection if the compensation is given on the basis of the assessment made by Abdul Ghafoor, contractor. Be that as it may, a nominal increase has been made by the learned High Court and there is no much difference in the compensation determined by Abdul Ghafoor as well as awarded amount by the High Court. The compensation awarded by High Court is neither illegal nor unreasonable or arbitrary rather advances the cause of justice because the built-up property of the appellants was located in Kharak Bazar and its commercial and potential value cannot be denied.

6. On the basis of available evidence, we are of the view that further enhancement of the compensation is not justified at all. We are also not inclined to accept the plea of WAPDA that compensation has already been enhanced arbitrarily by the Reference Judge and further

enhancement made by the learned High Court was not justified.

The upshot of the above discussion is that finding no force in these appeals, the same are hereby dismissed with no order as to costs.

JUDGE

CHIEF JUSTICE

Mirpur.  
22.1.2019.



