

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Umar Ata Bandial, CJ  
Mr. Justice Syed Mansoor Ali Shah  
Mrs. Justice Ayesha A. Malik

**CIVIL APPEALS NO.2150 TO 2263 OF 2019 AND CIVIL  
MISC. APPLICATIONS NO.5284 TO 5300 OF 2020**

(Against the judgment dated 18.06.2019, passed by Lahore High Court, Rawalpindi Bench, Rawalpindi in Regular First Appeals No.11, 12, 13, 100, 101, 102, 103, 104, 107, 12, 13, 48 to 57, 73 to 78, 83 to 86, 99, 236, 248, 265, 213 to 216 of 2012, 266 to 311, 313, 315, 314, 317, 316, 318 to 323, 331, 324 to 330, 332 to 334 of 2014, 10 of 2012 and 312 of 2014, respectively)

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|---------------|--|
| C.A.2150/2019 | Federal Government of Pakistan through Ministry of Defence Rawalpindi and another Vs. Mst. Zakia Begum and others                    |
| C.A.2151/2019 | Mst. Zakia Begum and another Vs. Military Estate Officer Hazara Circle Abbotabad and others  |
| C.A.2152/2019 | Mst. Zakia Begum and another Vs. Military Estate Officer Hazara Circle Abbotabad and others  |
| C.A.2153/2019 | Mst. Rafia Begum and another Vs. Military Estate Officer Hazara Circle Abbotabad and others  |
| C.A.2154/2019 | Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mohammad Ashraf and others                    |
| C.A.2155/2019 | Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Zumard Khan and others                        |
| C.A.2156/2019 | Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Ali Bahadur (deceased) through LRs and others |
| C.A.2157/2019 | Military Estates Officer (MEO) Hazara Circle, Abbottabad and another Vs. Taj Muhammad Khan (deceased) through LRs and others         |

C.A.2158/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Taj Mehmood Khan (deceased) through LRs and others
C.A.2159/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Fazal ur Rehman and others
C.A.2160/2019	Federal Government of Pakistan through Ministry of Defence Rawalpindi and another Vs. Mst. Zakia Begum and others
C.A.2161/2019	Federal Government of Pakistan through Secretary of Defence Rawalpindi and another Vs. Mst. Rafia Begum and others
C.A.2162/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Mohammad Ashraf and others
C.A.2163/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Akram Khan and others
C.A.2164/2019	Federation of Pakistan through Secretary of Defence Rawalpindi and another Vs. Khurshid Khan and others
C.A.2165/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Muzaffar Khan (deceased) through LRs. and others
C.A.2166/2019	Military Estates Officer, Hazara Circle, Abbottabad and others Vs. Aslam Khan (deceased) through LRs. and others
C.A.2167/2019	Federal Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Umer Hayat Khan and others
C.A.2168/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Amanat Khan and others
C.A.2169/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Waqar Ahmed Khan and others

C.A.2170/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Azmat Ali Khan and others
C.A.2171/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mst. Inayat Bibi and others
C.A.2172/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Khizar Hayat Khan and others
C.A.2173/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Barkat Ali Khan and others
C.A.2174/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Sardar Ali Khan and others
C.A.2175/2019	Federal Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mst. Shamshad Begum (deceased) through LRs. and others
C.A.2176/2019	Federal Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Sadaaqat Ali Khan and others
C.A.2177/2019	Federal Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Sher Afzal Khan and others
C.A.2178/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Masood Khan (deceased) through LRs and others
C.A.2179/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Sardar Afsar Khan and others
C.A.2180/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Khalid Mehmood and others
C.A.2181/2019	Federal Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mst. Sajida Bgum and

	others
C.A.2182/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mohammad Ayub and others
C.A.2183/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Rab Nawaz and others
C.A.2184/2019	Federation of Pakistan through Secretary of Defence Islamabad and another Vs. Mst. Hafeezan Sultan (deceased) through LRs. and others
C.A.2185/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mst. Naeema Zayad (deceased) through L.Rs and others
C.A.2186/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Chan Nawaz and others
C.A.2187/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mir Afzal Khan (deceased) through LRs. and others
C.A.2188/2019	Government of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Abdul Khaliq and others
C.A.2189/2019	Federation of Pakistan through Ministry of Defence Rawalpindi and another Vs. Mst. Zakia Begum and others
C.A.2190/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Ghulam Mohammad (deceased) through LRs. and others
C.A.2191/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Lal Khan and others
C.A.2192/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mst. Mumtaz Begum (deceased) through L.Rs and others
C.A.2193/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and

	another Vs. Iftikhar Ahmed Khan and others
C.A.2194/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Mohammad Ashraf and others
C.A.2195/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Goher Rehman and others
C.A.2196/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Ghulam Zakri and others
C.A.2197/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Abdul Khaliq and others
C.A.2198/2019	Federation of Pakistan through Secretary of Defence Islamabad and another Vs. Haji Fazal Dad and others
C.A.2199/2019	Federation of Pakistan through Secretary Ministry of Defence Islamabad and another Vs. Amir Afzal and others
C.A.2200/2019	Federation of Pakistan through Secretary of Defence Islamabad and another Vs. Khalid Mehmood and others
C.A.2201/2019	Federation of Pakistan through Ministry of Defence Islamabad and another Vs. Muzaffar Khan and others
C.A.2202/2019	Federation of Pakistan through Secretary Ministry of Defence Rawalpindi and another Vs. Haji Ahmed and others
C.A.2203/2019	Federation of Pakistan through Secretary of Defence Islamabad and another Vs. Fazal Dad and others
C.A.2204/2019	Military Estates Officer (MEO) Hazara Circle, Abbottabad Vs. Fazal Dad and others
C.A.2205/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Muhammad Afzal and others
C.A.2206/2019	Federation of Pakistan through Ministry

	of Defence, Rawalpindi and another Vs. Muhammad Nawaz and others
C.A.2207/2019	Federal Govt. of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Shamshad Begum and others
C.A.2208/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Burkat Ali Khan and others
C.A.2209/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Ghulab Shah and others
C.A.2210/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Lal Khan and others
C.A.2211/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Sher Afzal and others
C.A.2212/2019	Military Estates Officer (MEO) Hazara Circle, Abbottabad Vs. Zakia Begum and others
C.A.2213/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Aslam Khan and others
C.A.2214/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mohammad Ashraf and others
C.A.2215/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Rafia Begum and others
C.A.2216/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Mumtaz Begum and others
C.A.2217/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Sardar Afsar Khan and others
C.A.2218/2019	Federation of Pakistan through Ministry of Defence and another Vs. Umer Hayat Khan and others
C.A.2219/2019	Military Estates Officer (MEO) Hazara

	Circle, Abbottabad Vs. Akram Khan and others
C.A.2220/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Azmat Ali Khan and others
C.A.2221/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Masood Khan and others
C.A.2222/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Sardar Ali Khan and others
C.A.2223/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Ghulam Mohammad and others
C.A.2224/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Raja Muhammad and others
C.A.2225/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mushtaq Ahmed Khan and others
C.A.2226/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Waqar Ahmed and others
C.A.2227/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Iftikhar Ahmed Khan and others
C.A.2228/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Naeema Zaid and others
C.A.2229/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Ali Bahadur and others
C.A.2230/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Hafizan Sultan and others
C.A.2231/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mohammad Saddique and others
C.A.2232/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs.

	Khayzer Hayat and others
C.A.2233/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Saadat Khan Ali and others
C.A.2234/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Amir Afzal and others
C.A.2235/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Samundar Khan and others
C.A.2236/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Khurshid Khan and others
C.A.2237/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Sher Bahadur and others
C.A.2238/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Meer Afzal and others
C.A.2239/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Taj Mohammad and others
C.A.2240/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Amanat Khan and others
C.A.2241/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Ghulam Mohammad and others
C.A.2242/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mohammad Ayyub and others
C.A.2243/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Taj Mohammad and others
C.A.2244/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Zamurrad Khan and others
C.A.2245/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Hafizan Sultana and others



C.A.2246/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Masood Khan and others
C.A.2247/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Amir Afzal and others
C.A.2248/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Rab Nawaz and others
C.A.2249/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Sajida Begum and others
C.A.2250/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Chan Nawaz and others
C.A.2251/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Fazal Ahmed and others
C.A.2252/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mir Afzal and others
C.A.2253/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Sadaqat Ali Khan and others
C.A.2254/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Fazal ur Rehman and others
C.A.2255/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Ali Haider and others
C.A.2256/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Maskeena Jan and others
C.A.2257/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Akbar Jan and others
C.A.2258/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mohammad Ali and others

C.A.2259/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Anwar Jan and others
C.A.2260/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Munawar Khan (deceased) through L.Rs and others
C.A.2261/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Mst. Inayat Bibi and others
C.A.2262/2019	Military Estates Officer, Hazara Circle, Abbottabad Vs. Manzoor Alam and others
C.A.2263/2019	Federation of Pakistan through Ministry of Defence, Rawalpindi and another Vs. Hamida Manzoor and others
C.M.A.5284/2020	Federation of Pakistan, etc. Vs. Mohammad Ashraf, etc.
C.M.A.5285/2020	Federation of Pakistan, etc. Vs. Zumard Khan, etc.
C.M.A.5286/2020	Federation of Pakistan, etc. Vs. Taj Muhammad Khan, etc.
C.M.A.5287/2020	Federation of Pakistan, etc. Vs. Muhammad Ashraf, etc.
C.M.A.5288/2020	Federation of Pakistan, etc. Vs. Muzaffar Khan, etc.
C.M.A.5289/2020	Federation of Pakistan etc. Vs. Azmat Ali Khan etc.
C.M.A.5290/2020	Federation of Pakistan etc. Vs. Mst. Inayat Bibi etc.
C.M.A.5291/2020	Federation of Pakistan etc. Vs. Khizar Hayat Khan etc.
C.M.A.5292/2020	Federation of Pakistan etc. Vs. Barkat Ali Khan etc.
C.M.A.5293/2020	Federation of Pakistan etc. Vs. Masood Khan etc.
C.M.A.5294/2020	Federation of Pakistan etc. Vs. Sardar Afsar Khan etc.

C.M.A.5295/2020 Federation of Pakistan etc. Vs. Mst. Hafeezan Sultan etc.

C.M.A.5296/2020 Federation of Pakistan etc. Vs. Mst. Naeema Zayad etc.

C.M.A.5297/2020 Federation of Pakistan etc. Vs. Lal Khan

C.M.A.5298/2020 Federation of Pakistan etc. Vs. Mst. Mumtaz Begum etc.

C.M.A.5299/2020 Military Estates Officer Abbottabad Vs. Fazal Dad etc.

C.M.A.5300/2020 Federation of Pakistan etc. Vs. Lal Khan etc.

For the Appellants (Federation) : Sajid Ilyas Bhatti,  
Additional Attorney General for Pakistan  
M. Zaheer (MEO), Abbottabad  
(in CAs No.2150, 2154-2263/2019) and  
(CMAs No.5284-5300/2020)

For the Appellants (Private Parties) : S.M. Ayub Shah Bokhari, ASC  
Ch. Akhtar Ali AOR  
(in CAs No.2151-2153/2019)

For Respondents : Mr. M. Nawaz Khan, ASC  
(in CA No.2150/2019)  
Sh. Zamir Hussain, Sr. ASC  
(in CAs No.2154, 2155, 2158, 2162,  
2164-2168, 2169-2172, 2174, 2177,  
2178, 2180, 2182-2187, 2190, 2192  
and 2193 of 2019)

Nemo  
(in CAs.5284 to 5300 of 2020)

For POF : Mr. Mustafa Ramday, ASC  
Mr. Rashid Hafeez, ASC  
Jawad Mehboob,  
Manager Legal, POF assisted by  
Ms. Zoe Khan, Advocate and  
Mr. Akbar Khan, Advocate  
(in CAs.2151 to 2263 of 2019)

Nemo  
(in remaining cases)

For Government of Punjab : Mr. Qasim Chohan,  
Additional Advocate General, Punjab  
Naeemullah, Tehsildar, Hasanabdal

Date of Hearing : 24.03.2022

**JUDGMENT**

**AYESHA A. MALIK, J.-** These Civil Appeals are directed against judgment dated 18.06.2019, passed by the Lahore High Court, Rawalpindi Bench, Rawalpindi (**the High Court**), whereby the Regular First Appeals, filed by the landowners were allowed and compensation was enhanced to the rate of Rs.30,000/- per kanal for the purposes of acquisition of land, along with 15% necessary acquisition charges as well as compound interest, whereas the Regular First Appeals, filed by the Government, were dismissed.

2. The basic facts are that land measuring 29199 Kanals 18 Marlas was acquired from three villages in District Attock such that land measuring 27510 Kanals 13 Marlas from Burhan, 1630 Kanals 2 Marlas from Jallo and 37 Kanal 12 Marla from Islamgarh for the purposes of the extension of the Pakistan Ordinance Factory (**POF**). In this regard Notification under Section 4 of the Land Acquisition Act, 1894 (**Act**) was issued on 01.07.1990 and Corrigendum to the said Notification was issued on 19.12.1990. Notices under Section 9 of the Act were issued on 26.09.1992, calling for objections from the land owners. Notice under Sections 17(4) and 6 of the Act were also issued on 24.08.1991. The cost of the Award was worked out by the Revenue Department as Rs.78,057,458.73 and ultimately approved and deposited by the POF on 24.07.1991. The Award was announced on 18.08.1992. The

details of the categories of land and compensation per Kanal worked out by the Land Acquisition Collector, Attock is reproduced below:

Name of village	Kind of land	Area K --- M	Rate per kanal	Total cost
Burhan	Chahi Aabi Selab	1-12	13902.00	22,243.00
	Maira Rakkar Lass	10176-14	3981.00	4,05,17,513.38
	Banjar Qadeem	3395-11	1990.70	67,59,521.38
	Ghair Mumkin	13936-16	995.35	1,38,71,993.88
<b>Total</b>		<b>27510-13</b>		<b>6,11,71,271.84</b>
Jallo	Chahi Aabi Selab	210-04	13,902.00	29,22,200.40
	Maira Rakkar Lass	672-14	3,981.40	26,78,287.78
	Banjar Qadeem	211-07	1,990.70	4,21,729.79
	Ghair Mumkin	535-07	995.35	5,32,860.62
<b>Total</b>		<b>1630-02</b>		<b>65,55,078.59</b>
Islam-garh	Maira Rakkar Lass	37-12	3,981.40	1,49,700.64
<b>Total</b>		<b>37-12</b>	<b>3,981.40</b>	<b>1,49,700.64</b>
<b>Total</b>		<b>29,178-07</b>		<b>Rs.6,78,76,051.07</b>
15% compulsory acquisition charges				Rs.1,01,81,407.66
<b>Total:</b>				<b>Rs.7,80,57,458.73</b>
8% compound interest from 17.9.1991 to 31.7.1992 (10 months and 15 days)				Rs.54,64,022.11
<b>Total:</b>				<b>Rs.8,35,21,480.84</b>
Cost as explained in para 28				55,66,366.00
Cost as explained in para 29				13,15,709.00
Cost as explained in para 30				22,60,000.00
Cost as explained in para 31				1,33,200.00
Cost as explained in para 32				77,115.00
Cost as explained in para 33				86,700.00
<b>Grand Total</b>				<b>Rs.9,29,60,570.84</b>

A Supplementary Award was issued on 20.3.1993 with respect to trees and structure on the land and the total acquisition cost awarded by the Land Acquisition Collector for the same was worked out as Rs.97,322,991.84.

3. The landowners were aggrieved by the compensation awarded, hence, References under Section 18 of the Act were filed wherein the basic grievance was that the rate of compensation fixed by the Assistant Commissioner/Land Acquisition Collector Attock was inadequate and against the spirit of the Act. The cases were heard and decided on 13.05.1993 by the Senior Civil Judge, Attock (**Referee Court**), wherein compensation was awarded in the following terms:-

*"Petitioners shall be entitled to the compensation for their Nal Chahi land at the rate of Rs.32938/- per kanal, for maira land at the rate of Rs.8095/- per kanal, for Banjra Rs.8480/- per kanal and Ghair Mumken Rs.6439/- per Kanal. They shall also be entitled to 15% compulsory acquisition charges and 8% compound interest (already granted by the L.A.C.)"*

Aggrieved by the enhanced compensation, the Province of Punjab preferred R.F.A. Nos.355, 356, 360 to 514 of 1993 which were allowed and the matter was remanded to the Referee Court vide consolidated judgment dated 03.06.1999.

Para 7 whereof being relevant, is reproduced below:

*"As we have come to the conclusion that the decision of the learned Senior Civil Judge, Attock is based only on the statement of Syed Masood Ahmad Shah which as aforesaid, was not authorized to make the statement of the nature which he did, we are of the view that the ends of justice shall be best served to accept these appeals and to remand the references back to the learned Senior Civil Judge with the direction that he shall decide the same within a period of three months on the basis of the evidence on the record brought by the parties."*

After remand, the learned Referee Court rejected the references, vide judgment dated 12.12.2000, relevant portion whereof, is reproduced below:

*"The reasoning given by the Land Acquisition Collector justifies the rate fixed by him of the land acquired whereas the petitioners by their evidence have not proved beyond doubt that the acquired land was worth Rs.50,000/-/Rs.60,000/- per kanal before one year of Notification u/s 4 of Land Acquisition Act. The land was acquired for a National Project and our country is facing a financial crunch especially the acquiring departments have no money to pay even for necessary expenditures. In view of all this all the issues are decided against the Petitioners and in favour of Respondents."*

Dissatisfied with the above findings, the landowners approached the High Court through different Regular First Appeals, which were once again allowed and the matter was remanded to the Referee Court vide judgment dated 03.06.2009, in Regular First Appeals No.125, 116 of 2001, 07 to 32, 46, 47, 57, 59 to 62, 96, 97, 122 and 189 of 2003, 158, 174 and 192 of 2004 and 12 & 13 of 2005, para 6 whereof being relevant is reproduced below:

*"For what has been discussed above, we allow these appeals and remand the proceedings to the Referee Court again for decision afresh, after taking into consideration the evidence available on record, especially the exhibit referred to and mentioned in the preceding paragraphs and the precedents cited above in detail, giving cogent reasons in this respect. The exercise be preferably completed within a period of two months from the date the parties appear before the concerned Court. The parties to appear before the District Judge, Attock, on 22.06.2009, who will entrust the matter to a Court of competent jurisdiction for adjudication as observed above."*

The Referee Court finally decided the References vide judgment dated 31.10.2011, wherein compensation was awarded in the following terms:

*"For Chahi, Abi Selab. Rs.18902/- per kanal*

<i>For Maira, Rakarand Lass</i>	<i>Rs.7981.40 per kanal</i>
<i>For Bangar Qadeem</i>	<i>Rs.3990.70/- per kanal</i>
<i>For Ghair Mumkin</i>	<i>Rs.1995.35- per kanal"</i>

This judgment was challenged before the High Court in RFA No.11 of 2012 by the landowners for enhancement of the compensation and the Government also challenged it for reduction of the compensation. The High Court considered the matter and concluded that the value of the land was calculated on the basis of land classification which is incorrect, further that the potential value of the land has not been factored in. Hence, the Court modified the compensation such that it was fixed at Rs.30,000/- per kanal for the total land acquired.

4. Only two landowners are aggrieved by the impugned judgment to the extent that the value fixed is incorrect and should be enhanced to Rs.50,000/- per kanal. The Appellant, Federation of Pakistan and the Military Estate Officer (MEO) Hazara Circle, Abbottabad are aggrieved by the value fixed at Rs.30,000/- per kanal. They argue that there is no basis for fixing compensation at one rate being Rs.30,000/- as there is variation in the landscape and the fact that there are roads, a railway line, commercial and residential areas in some pockets, does not mean that the benefit of the same should be attributed to the whole area.

5. The learned High Court while considering the case of the Federation, relied on the principles of potential value as laid down by this Court in the case reported as Malik Aman and others v. Land Acquisition Collector and others (PLD 1988 SC 32) and Land Acquisition Collector, GSC and another v. Mst.



Surraya Mehmood Jan (2015 SCMR 28) concluded that the classifications made by the Land Acquisition Collector are not correct and that the market value of the entire land being acquired should be considered. The Court also concluded that the potential value for the purposes of the extension project of the POF meant that the value for the land be it *Chahi Aabi Selab, Maira Rakkar Lass, Banjar Qadeem* and *Ghair Mumkin* shall be the same which the Court fixed at Rs.30,000/- per kanal.

6. Counsel for the Appellants being the Federation and for the POF and MEO argue that the acquired land falls in different categories such as *Chahi Aabi Selab, Maira Rakkar Lass, Banjar Qadeem* and *Ghair Mumkin* and have to be valued accordingly. Consequently, the rates for compensation will be determined on the basis of the revenue record and the given classifications. They also argued that treating the acquired land as one area, for the purposes of compensation is against the spirit of the Act as market value and potential value do not suggest that the land has to be valued as one large area, rather its future use and value of similar land in adjoining areas are relevant. Hence, they argued that the evidence produced shows the variation in the value of the land based on the landscape and compensation must be accordingly awarded. Their case is that the Court cannot treat the entire land as one large area of land for the purposes of compensation and they rely on various maps to demonstrate the variations in the landscape and the

availability of transport, infrastructure and other amenities in different parts of the area acquired.

7. The relevant law on the issue is Sections 23 and 24 of the Act read with Rule 10(1)(iii) of the Punjab Land Acquisition Rules, 1983 (**Rules of 1983**), which are reproduced hereunder:

**23. Matters to be considered in determining compensation.**— (1) *In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—*

*firstly, the market-value of the land at the date of the publication of the notification under section 4, sub-section (1)*

**Explanation.**—*For the purpose of determining the market-value, the Court shall take into account transfers of land similarly situated and in similar use. The potential value of the land to be acquired if put to a different use shall only be taken into consideration if it is proved that land similarly situated and previously in similar use has, before the date of the notification under sub-section (1) of section 4, been transferred with a view to being put to the use relied upon as affecting the potential value of the land to be acquired:*

*Provided that—*

- (i) *if the market-value has been increased in consequence of the land being put to a use which is unlawful or contrary to public policy, that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if it were put to ordinary use; and*
- (ii) *(ii) if the market-value of any building has been increased in consequence of the building being so overcrowded as to be dangerous to the health of the inmates, such overcrowding shall be disregarded and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as can be*

*accommodated in it without risk of danger to health from overcrowding.*

*secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof;*

*thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;*

*fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings;*

*fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and*

*sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land.*

*(2) In addition to the market-value of the land as above provided, the Court shall award a sum of fifteen per centum on such market-value, in consideration of the compulsory nature of the acquisition, if the acquisition has been made for a public purpose and a sum of twenty-five per centum on such market-value if the acquisition has been made for a Company.*

**24. Matters to be neglected in determining compensation.**— *But the Court shall not take into consideration,—*

*first, the degree of urgency which has led to the acquisition;*

*secondly, any disinclination of the person interested to part with the land acquired;*

*thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;*

*fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;*

*fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;*

*sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or,*

*seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the 1[notification under section 4, sub-section (1).*

**Rule 10(1)(iii)(a)(b)(c)**

(1) *The Commissioner of the Division while issuing a Notification under section 5 or 17 of the Act shall ensure that:-*

(iii) *The Collector of the district has carefully and prudently calculated the estimated price of the land sought to be acquired keeping in view:-*

*(a) the factors laid down in sections 23 and 24 of the Act;*

*(b) the classification of the land to be acquired and its location; and*

*(c) the average market price of similar kind of land similarly located, on the basis of the price prevalent during the period of twelve months preceding the date of publication of Notification under section 4;”*

8. Section 23 of the Act requires that while determining compensation for land acquired, market value of the land must be considered and that market value means the

value of similar land located in the vicinity and put to the same use. Hence, the key factors for determining market value are land similarly situated and in similar use. Potential value also has to be factored in where the land is put to different usage, so when agricultural land is acquired for commercial, industrial or residential purposes, the Act requires that along with the market value, potential value be considered. This is important because market value *per se* does not factor in the value that can be attributed based on the capacity or potentiality of the land, meaning the value based on the use it is reasonably capable of being put to in the future. It means assessing that if the land were fully developed or used at its fullest potential, what would its value be. So Rule 10(1)(iii)(a) (b)(c) of the Rules requires the Collector to consider all factors in Sections 23 and 24 of the Act, the classification of the land acquired, its market price over the last twelve months and potential value.

9. This Court, while interpreting Section 23 of the Act has interpreted *potential value* to mean and include the following factors:

- (i) The land has potentiality if it is in close proximity to a residential area, or the municipal limits of a city. Also to be considered is that the acquisition of such land is proof of its potential for development. (*Land Acquisition Collector, etc. v. Abdul Qayyum Malik, etc.* 1980 SCMR 63).

- (ii) The land is not to be valued merely by reference to the use to which it is being put at the time at which its value has to be determined, but also by reference to the uses to which it is reasonably capable of being put in the future; and market-value is the potential value of the property at the time of acquisition which would be paid by a willing buyer to a willing seller, when both are actuated by business principles prevalent in the locality at that time. (Fazalur Rahman and others v. General Manager, S.I.D.B and another **PLD 1986 SC 158**).
- (iii) Revenue record is not conclusive of the value of the land, rather it is the value of the use which the land is capable of and the use of the land in the vicinity. (Sardar Abdur Rauf Khan and others v. The Land Acquisition Collector/Deputy Commissioner, Abbotabad and others **1991 SCMR 2164** and Land Acquisition Collector, G.S.C., N.T.D.C., (WAPDA), Lahore and another v. Mst. Surraya Mehmood Jan **2015 SCMR 28**).
- (iv) The Court is to take into consideration the potentialities of the land, which may even include the price escalation, the issuance of notification under Section 4(1) of the Act. (Land Acquisition Collector, Abbottabad and others v. Muhammad Iqbal and others **1992 SCMR 1245**) and Sarhad Development Authority, NWFP (now KPK) through COO/CEO (Officio) and others v. Nawab Ali Khan and others **2020 SCMR 265**).

- (v) For determining the price which a willing purchaser would give to the willing seller relying only on past sales is not enough as the value of the land with all its potentialities may be determined by examining local property dealers or other persons who are likely to know the price that the property can fetch in the open market. Where land is acquired near the Highway, its potentiality and future prospects are to be considered (Maqbool Ahmed Fatehally and others v. The Collector, District Lasbella and others **1992 SCMR 2342**).
- (vi) The possibility of land being used for a different purpose in future and its potential value on account of its situation near the developed area is important. (Province of Punjab through Collector Bahawalpur, District Bahawalpur and others v. Col. Abdul Majeed and others **1997 SCMR 1692**).
- (vii) Classification or the nature of land may be taken as relevant consideration but that is not the whole truth. An area may be *Banjar Qadeem* or *Barani* but its market value may be tremendously high because of its location, neighbourhood, potentiality or other benefits. The potential uses to which the land can be put to is relevant. (Murad Khan through his widow and 13 others v. Land Acquisition, Collector, Peshawar and another **1999 SCMR 1647**).
- (viii) Amenities such as roads, water, gas, electricity are relevant as is availability of schools and colleges in

the vicinity of the acquired land. Urbanization of the area shows great potentiality of the area. (Ministry of Defence through Secretary, Government of Pakistan and others v. Syed Wajdi Rizvi **2009 SCMR 105** and WAPDA through S.E. Acquiring Cell CRBC Project WAPDA, D.I. Khan and another vs. Syed Ali and others **2010 SCMR 82**).

10. The sum total of the aforesaid cases is that land must be valued as per its market value which is the price a willing buyer would give to a willing seller and must also include its potential value. Potential value means the value of the land based on the probability that if developed, considering its location and proximity to residential, commercial or industrial areas with amenities such as roads, water, gas, electricity, communication network and suitability it has the potential to be developed, which will increase its value. The value of land must include the potentiality of the land because this is the value, which the landowners would benefit from if they were able to maintain their ownership over the land. So far as the determination of potential value, there is no mathematical formula, which is applied uniformly in every case. Each case is seen in the context of its own facts but potential value has to be factored along with the market value. The objective is to ensure that the landowner not only gets the actual value of the land at the time it is acquired but also gets the value based on any future prospects attached with the use of land. Consequently, factors such as entries in the revenue



record and land classifications cannot form the basis of the compensation as it does not bring out the potential value of the land and it does not factor in future prospects of the land. Although, the Land Revenue Collector is required to classify the land being acquired with its location, under Rule 10 of the Rules, it is not the sole basis for calculating the estimated price of the land under acquisition. It is important to note that this Court has considered the concept of *compensation* in the case reported as Land Acquisition Collector and others v. Mst. Iqbal Begum and other (PLD 2010 SC 719) and concluded that if a landowner is deprived of their property they must be adequately compensated so as to give *gold for gold and not copper for gold*. This is the essence of granting potential value. This Court has also held that compensation cannot be based on past sales of similar land in the same vicinity because potentiality cannot be determined without examining future prospects. Hence, compensation is about the value of the land, being its market value plus its potential value, so as to ensure that the landowner is duly compensated. This is fundamental to the process of award of compensation.

11. The law of acquisition is confiscatory in nature and easily deprives an individual of their property and all rights attached to it. The Constitution of the Islamic Republic of Pakistan, 1973 (**Constitution**) gives every citizen the right to acquire, hold and dispose of property in every part of Pakistan under Article 23. Property has been interpreted to mean and include a right of proprietorship and includes every possible

right or interest abstract or concrete. It includes the right to own, possess and enjoy the property (*Pakcom Limited and others v. Federation of Pakistan and others* **PLD 2011 SC 44**).

The right to own property being a fundamental right is inclusive of the right to possession, right of control and the right to derive income from the property. Accordingly, the right to own property under Article 23 of the Constitution means the right to own economically productive property associated with agriculture, commerce, industry and business. Hence, it is a source of livelihood and provides economic security to a person. This goes to the underlying right to dignity of an individual and their home, as prescribed in Article 14 of the Constitution. Article 24 of the Constitution protects the right to own property such that no person can be deprived of his property save in accordance with law under Article 24. The exception to this fundamental right as per Article 24 is compulsory acquisition for public purpose, which means that the State can acquire private property for public purpose under the authority of law, which provides for compensation and either fixes the compensation or provides for a mechanism to fix compensation. The Constitution, therefore, mandates that if there is any acquisition by the State, it will be under a Statute, which provides for due process and compensation. So the Constitution has ensured that if acquisition is necessary it comes at a cost, which is compensation. The right to compensation under the authority of a law has a constitutional underpinning that is the protection given to the right to own

property. In the context of acquisition it means that a person who owns property has to be compensated on account of being deprived of their property. When a person is deprived of their right to own property, even if in accordance with law, they are deprived of their right to control, possess and earn from that property. And this deprivation is what must be compensated.

12. The Act is a colonial law, designed to facilitate acquisition of private land for public purpose. The Act was enacted with the objective of building infrastructure like railway lines, roads, bridges and communication networks essential for the benefit of the rulers of the time. As per its Statement of Objects and Reasons (*Gazette of India, 1892, Pt. V, p.32: for Report of the Select Committee, see ibid., 1894, p. 23 and for Proceedings in Council, see ibid., 1892, Pt. VI, p.19, 25, and ibid., 1894, pp.19, 24 to 42*), the law was designed to prevent a heavy burden on the public exchequer. Hence, its very objective was to acquire land at the least price possible. Despite amendments<sup>1</sup> in Section 23 of the Act with the requirements to calculate market value and potential value so as to compensate the landowner, the practice remains to calculate land value based on its classification. Hence, the colonial objective and understanding of the law continues as acquisition even today, for public purpose, is at the cost of an individual's right to own property. In this context, there appears to be no effort on the part of the acquiring department

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<sup>1</sup> Land Acquisition (West Pakistan Amendment) Ordinance, 1969 (XLIX OF 1969) published in the Gazette of West Pakistan (Extraordinary), dated 17 December 1969

to be fair in their application to determine compensation. The Constitution requires that where a person is deprived of their property under the Act, they must be compensated as per the requirements of the Act, however, the process followed and factors relied on when compensation is awarded is not close to the value of the land and is primarily based on the land classification revenue system, which lacks proximity with the market value and potential value of the land. This is despite the elaborate judgments decided by this Court setting out the factors to consider when calculating market value and potential value. Therefore, as we see it the effect remains the same as was in 1894, to acquire land at the lowest price possible. This is evident in the cases before us where the land was initially valued based on its land classification and land revenue requirements without actually granting the landowners the market value and potential value of their land. In the present cases, an entire lifetime has been spent in challenging the compensation awarded, which was not determined in the context of Section 23 of the Act. The landowners disputed the compensation awarded in 1992, which was based on the nature of the land being *Chahi Aabi Selab* (irrigated from well/flood water), *Maira Rakkar Lass* (sandy), *Banjar Qadeem* and *Ghair Mumkin* (uncultivated land). These categories are based on agricultural requirements essentially denoting the manner in which the land is irrigated adding to its fertility, quality of the soil and its potential for

cultivation. Based on this, the average yield per *kanal* can be calculated on the basis of which land revenue is assessed.

13. These classifications are given in the West Pakistan Land Revenue Assessment Rules, 1968 and are defined as follows:

**Classes of land.** (1) The most important classes of cultivated land are as follows:-

- (a) *barani* dependent on rainfall;
- (b) *sailab* flooded or kept permanently moist by rivers;
- (c) *rod-kohi* watered from hill torrents;
- (d) *abi* watered by lift from tanks, *Jhils*, streams, by flow from springs or *karezes*;
- (e) *nehri* irrigated by canals by flow or lift;
- (f) *chahi* watered from wells;
- (g) *chahi-nehri* irrigated partly from a well and partly from a canal;
- (h) *nul-chahi* watered from tube-wells; and
- (i) *chahi-mustaar* irrigated from water taken on loan.

(2) The most important classes of uncultivated land are as follows:-

- (a) *banjar kham* land which has remained unsown for four successive harvests;
- (b) *banjar jaded* land which has remained unsown for twelve successive harvests;
- (c) *banjar qadim* --- waste and barren land which has remained unsown for more than twelve successive harvests; and
- (d) *ghair mumkin* --- land which has, for any reason, become permanently uncultivable, such as land under roads, buildings,

streams, canals, karezes, tanks or the like or land which is barren sand or ravines.

The objective of these classifications is to assess the annual value of the landowner's share of the produce cultivated on the land. In this context, valuing land based on agriculture classification does not bring out the market value of the land or even its potential value. The land may be classified as *Banjar Qadeem* or *Chahi Aabi Selab* but its market value may be much more based on its location and proximity to roads and other amenities. Hence, reliance on the aforesaid classifications is not relevant for calculating compensation. In the cases before us, a large area of land was acquired for the extension of the POF, meaning that a factory is to be built on the land. The agricultural classifications and assessment formula have no real or material nexus to calculating compensation because the land is going to be used for non-agricultural purposes. By relying exclusively on the land revenue system to determine compensation effectively, the landowner is being given the least amount of compensation, without any thought as to the deprivation of the right to property.

14. Accordingly, we find that the fundamental error in these cases is that even though three villages have been acquired, the assessment for compensation made by the Land Acquisition Collector and the Referee Court was on the basis of agricultural classification of land, ignoring the potential value of the entire area being acquired. The Award looked at the

classification of land in the Jamabandi for all three villages and the cost was prepared accordingly. Based on the calculations made the acquiring department deposited the compensation in the government treasury in 1991. The landowners kept agitating for compensation as per the Act until the High Court considered their plea and looked into the factors, which should have been considered by the Land Acquisition Collector. Notwithstanding the time consumed in this process, the landowners have not been compensated and have been threatened by dispossession, displacement and deprived of their livelihood, not to mention the despair caused by following an outdated and unjust process for grant of meagre compensation.

15. The entire thrust of the Federation's and MEO's case is that land must be valued as per the landholdings it has acquired and not as one area. They also argue that the market value and potential value of small pieces of land cannot form the basis of compensatory value of a large area. They argue that some pieces of land may have a higher value, than others, due to their location, but that does not mean that the entire bloc will have the same value. They have relied on the case reported as Chimanlal v. Special Land Acquisition Officer, Poona (AIR 1988 SC 1652) to argue that smallness of size is a plus factor whereas largeness of the area is a minus factor while calculating compensation.

16. This entire argument is flawed at several levels. Firstly, the reliance on AIR 1988 SC 1652 is misconceived as

the plus and minus factors have been given with respect to assessment of market value and not potential value. These are used to ascertain price variations as per a prudent purchaser. Hence distinguishable. Secondly, the foremost basis of potential value is that land must be valued not only in terms of its market value as on the date of the notification under Section 4, keeping any delays and time lapse under consideration to the time of the award, but it must include the potential value of the land with reference to the use it is reasonably capable of being put to. Measuring the land in small parcels, based on ownership and revenue classifications is to the disadvantage of the landowners, because it undermines the potential value particularly when the acquisition is of a large area of land for a single project. In such a situation, the landowners must be given the benefit of the potential value of the entire area being acquired and not just small pieces of land, so as to ensure that the landowners are compensated as per the expected reasonable capacity of land use. Where the State opts to acquire land, for public purpose, then the Constitutional protection to property rights must be meaningful, because compulsory acquisition of land means the loss of economically productive property.

17. The area has been described as being industrialized in some parts, close to the GT road and that there is a railway line leading to Peshawar and Rawalpindi in the area. Amenities such as gas, electricity, water and roads are available in the



area. There are pockets of residential areas, tube wells, hotels, markets and petrol pumps. The entire area is likely to benefit from these developments in the future. These are all attributes for calculating potential value, which were not duly considered by the Land Acquisition Collector and Referee Court despite the fact that the relevance of these attributes have been given by this Court in many judgments over the years. We understand that there is no exact formula to calculate potential value, and it must be seen in the context of the acquisition being made, however, we consider the objective of granting a lesser value for the land acquired, to be against the fundamental right to life, dignity and the right to own property. The Constitution mandates that the landowner is compensated as per the Act and Section 23 of the Act ensures that the landowner gets the best market value keeping in consideration the future prospects of the use of the land. Compensation as a basic right means that the landowner does not lose any financial advantage that they had on account of their property rights. To evaluate the Land Acquisition Collector must consider the location of the land under acquisition, and its physical attributes such as accessibility, attributes related to land use, which include residential, commercial and industrial use; the availability of utilities such as water, gas, electricity, phone connectivity and the price of land in the vicinity. Adding to this value of the land, factors such as potential for economic growth, urbanization, infrastructure development, adds value to the land. Where land is acquired for one project, the

potential value of the entire area being acquired is relevant as the very purpose of the acquisition suggests that the land has future prospects.

18. Ideally, there should be guidelines to calculate this value, however, since the efforts of the government have been to undervalue the land, no real effort has gone into devising a scheme to calculate potential value over the years. This is why there is so much litigation on just this issue. Under the circumstances, there is a dire need to legislate on the issue and to devise a methodology to calculate potential value and market value so that it is neither arbitrary nor left to the whims of the Collector. This should be a priority for the government as acquisition cannot be at the expense of the financial loss of a landowner. Where there is acquisition for public purpose, the Act mandates that a fair value is prescribed based on the market value and the potential value of the land and the cases of this Court give sufficient guidance on calculating market value and potential value, hence, there appears to be no justification to continue with archaic concepts whilst valuing the land. In these cases, market value and potential value has been assessed at Rs.30,000/- per kanal based on the willing buyer, willing seller formula as well as on the available amenities such as transport, electricity, urban development and industrialization, which shows there is potential for the area to be fully developed. This is based on

the evidence and calculation of future prospects. Unfortunately, a great amount of time was consumed for the land owners to get the worth of their land all of which could have been avoided, had the value been properly assessed.

19. Consequently, in view of the aforesaid, Civil Appeals No.2150 and 2154 to 2263 of 2019, filed by the Federation of Pakistan and Military Estate Officer as well as Civil Appeals No.2151 to 2153 of 2019, filed by the two landowners, are dismissed.

20. Civil Misc. Applications No.5284 to 5300 of 2020 filed by the Federation of Pakistan and Military Estate Officer are dismissed as not pressed.

**CHIEF JUSTICE**

**JUDGE**

Islamabad  
'APPROVED FOR REPORTING'  
24.03.2022  
Azmat/\*

**JUDGE**