

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

1<sup>st</sup> Appeal No.D-92 of 2002

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of main case

**17.03.2020.**

Mr. Muhammad Sachal R. Awan advocate for appellant.

Mr. Muhammad Hamayoon Khan, D.A.G.

Mr. Allah Bachayo Soomro, A.A.G.

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The controversy involved in the instant petition is the quantum / rate of the property per square foot which is covered by a judgment passed in 1<sup>st</sup> Appeal No.67/2002 wherein the controversy in relation to the calculation of compensation was addressed. The relevant part of the judgment is reproduced as under:

*“For the foregoing reasons, it is held that necessary material for determining the market value of the land acquired by respondent No.1 is available in the Award itself, which has been ignored by the Land Acquisition Officer as well as learned II Additional District Judge, Nawabshah causing injustice to the appellant. I find force in the contentions of Mr. Jhamat Jethanand that on the basis of observations made by Land Acquisition Officer, the market value ought to have been determined at the rate of Rs.15-20 per square foot. However, I am of the opinion that it will be faire to all the parties, if the market value of the land is directed to be determined at the rate of Rs.15/- per square foot and I direct accordingly. Mr. Jhamat has not pressed the objection to the valuation of the standing crops, trees, brick-kilns etc and therefore compensation determined in this behalf is upheld.*

*After hearing the learned advocates for the parties in the Court today, the Appeal was allowed by the following short order:*

1. *The cost of land is fixed at Rs.15/- per sq ft. The compensation to be paid for the lands owned by appellants and acquired by the respondents be determined accordingly.*
2. *The additional compensation under section 28-A Land Acquisition Act, 1894 has not been granted. The respondents are directed to*

*allow the additional compensation under section 28-A of the Land Acquisition Act, 1894, which is a mandatory requirement.*

3. *The compensation for compulsory nature of acquisition has already been awarded by Land Acquisition Officer, as provided under section 23(2), on the value determined by him. The respondents are directed to allow the compensation under section 23(2) on the difference of amount after calculation of the total value at the rate of Rs.15/- per square foot.*
4. *Interest under section 34 has been allowed on market value determined by Land Acquisition Officer on the value determined by him. The respondents are directed to allow the interest under section 34, on the difference of amount after calculation of the total value at the rate of Rs.15/- per square foot in accordance with the provisions contained in section 34.*
5. *The respondents are directed to pay entire amount of compensation including compensation under section 23(2), interest under section 34 and additional compensation under section 28-A, within four months from today.*

*These are the reasons in support thereof. The appeal is allowed in the above terms."*

The aforesaid order was maintained by the Honourable Supreme Court in terms of order dated 08.12.2006, whereby Civil Appeal No.2160 of 2004 was dismissed as being barred by time.

On the last date, Mr. Muhammad Hamayoon Khan learned D.A.G. raised grievance that the remedy before the referee court was exhausted directly without making a reference to the Land Acquisition Officer. Counsel was then asked if he had not approached the referee court, would his rights interests as far as market value of the property is concerned would have been saved in view of the judgment reported in PLD 2010 Supreme Court 878, he sought time on the last date. Today, he has appeared along with the judgment and has almost conceded that insofar as the ratio of the judgment referred above is concerned, he would have been entitled for the same relief as given to other khatedars. This being the fact, we are not impressed by the arguments of the learned counsel that he has approached the referee court directly. The appellant is

otherwise entitled for the same relief as granted to other khatedars in respect of same award. Hence, the treatment given to other khatedars in the same award be also extended to the appellant. Accordingly, this appeal is allowed on the same terms as given to other khatedars and recorded in the order passed in 1<sup>st</sup> Appeal No.67/2002 which is reproduced above for the sake of convenience.

This appeal stands disposed of in the above terms.

JUDGE

JUDGE

Ali Haider

