

Tehri Hydro Development Corporation ... vs Smt. Archana Shukla & Others on 14 May, 2026

2026:UHC:3725

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL
FIRST APPEAL No.01 of 2015

Tehri Hydro Development Corporation Ltd.
.....Appellant

Versus

Smt. Archana Shukla & Others Respondents

With

FIRST APPEAL No.02 of 2015

Tehri Hydro Development Corporation Ltd.
.....Appellant

Versus

Kamta Prasad & Others Respondents

Presence:-

Mr. Shobhit Saharia, learned counsel for the appellant. Mr. I. P. Kohli, learned Standing Counsel for the respondent no.2.

----- Hon'ble Siddhartha Sah,
J. (oral) Since common question of law and fact are involved in these appeals, therefore, they are being heard and decided together. However for the sake of brevity, facts of First Appeal No.01 of 2015 alone are being considered.

2. The First Appeal 01 of 2015 'Tehri Hydro Development Corporation Ltd. Vs. Smt. Archana Shukla & Others' has been preferred against the judgment and order dated 26.09.2014 passed by the learned District Judge, Haridwar in L.A. Case No.15 of 2006, 'Smt. Archana Shukla 2026:UHC:3725 vs. State of Uttarakhand through District Magistrate, Haridwar and others', vide which, the Reference Court has directed for deduction of 30% of the amount from the exemplar sale deed, though Special Land Acquisition Officer (hereinafter referred to as "SLAO") had made 50% deduction. First Appeal 02 of 2015 'Tehri Hydro Development Corporation Ltd. Vs. Kamta Prasad & Others' has been preferred against the judgment and order dated 26.09.2014 passed by the learned

District Judge, Haridwar in L.A. Case No.13 of 2006, 'Kamta Prasad Verma vs. State of Uttaranchal & Others',

3. Before proceeding further, it needs to be mentioned that when notices were initially issued to respondent no.1, none had appeared on her behalf despite service of notice. Thereafter, upon noticing that respondent no.1 had been sufficiently served, none appeared on her behalf this Court, vide order dated 04.01.2019, had permitted the appellant to serve the respondent no.1 by way of publication. The appellant had taken the steps to serve the respondent no.1 through publication, and an affidavit of service has been filed. Therefore, vide order dated 30.06.2020, this Court found that respondent no.1 has not appeared despite of service being effect upon her twice. Subsequently, vide order dated 29.07.2020, this Court had passed the order that these first appeals would be posted for ex-parte hearing, as none had appeared on behalf of respondent no.1 despite due service, including service through publication.

2026:UHC:3725 Accordingly, the present appeal is being heard ex-parte against respondent no.1.

4. The relevant facts of the case as stated in this appeal are as follows:

(i) An area measuring 67.251 hectares, i.e. 167.18 acres, situated in Village Salempur, Tehsil Roorkee, District Haridwar, was acquired for the purpose of rehabilitation of the Tehri Dam Project.

Notification under Section 4(1) of the Land Acquisition Act was issued on 19.04.2004 and was published in the Gazette on the same date. The said notification was further published in the newspapers on 21.04.2004 and 22.04.2004, and public notice thereof was issued on 27.04.2004. Thereafter, Notification under Section 6 dated 27.10.2004 was issued and published in the newspapers on 28.10.2004 and 29.10.2004, while public notice thereof was issued on 30.10.2004. The urgency clause contained under Section 17 of the Act was invoked, and possession of the acquired land was taken on 21.03.2005.

(ii) The SLAO, Haridwar passed the Award on 28.12.2005. For determining the correct market value of the acquired land, the SLAO collected 144 sale deeds. Out of the said sale deeds, one sale 2026:UHC:3725 deed bearing No.101, pertaining to Khasra No.473 and relating to an area 323.51 square metres, executed on 05.05.2003, was selected and adopted as the exemplar sale deed for the purpose of assessing the market value of the acquired property. On the basis thereof, the market value was assessed at the rate of Rs.17,94,380.39 per hectare. Thereafter, after applying a deduction of 50% in accordance with the provisions of the Land Acquisition Manual, the rate adopted for determination of compensation was Rs.8,97,190.19 paisa per hectare, and on the basis thereof the compensation was to be paid to all claimants/landholders.

(iii) Being dissatisfied with the aforesaid Award dated 28.12.2005, the claimants/respondents herein made a reference dated 08.02.2006 under Section 18 of the Land Acquisition Act, which was forwarded by the SLAO to the District Judge, Haridwar. In the aforesaid reference, it was contended that the acquired land was totally residential land. The parameters adopted by the SLAO for

determination of market value and compensation were wrong, arbitrary and against the law. The SLAO had fixed 17.11.2004 as the date for filing objections in respect of the 2026:UHC:3725 acquisition proceedings. The claimants, along with their objections, presented themselves before the SLAO and raised both oral as well as written objections, which were duly recorded. It was specifically contended that the claimants had consented to compensation at the rate of Rs. 6 lakhs per bigha for the purpose of acquisition. Rs. 6 lakhs per bigha was the market rate of the land in the vicinity because the acquired land, as well as the land in the vicinity was a residential purpose land.

(iv) The location of the acquired land was stated to be highly significant inasmuch as several important government establishments were situated in close proximity thereto, including the District and Sessions Court, office of the District Magistrate, District Prison, office of the Senior Superintendent of Police, the industrial area established by the State Government, and the world famous Bharat Heavy Electricals Limited (BHEL) & Aavas Vikas Colony. Therefore, the market rate of the land of this area is very high and therefore, the claimants had purchased the land approximately three to four years prior to the acquisition and had been cultivating the same. Since the acquired land was situated near the industrial area, it also possessed 2026:UHC:3725 industrial potential in future, thereby further enhancing its value.

(v) It was further contended that the acquired land had proper access through State Highways and was equipped with all necessary facilities and amenities, and for that reason the compensation awarded by the SLAO is very low and the award ought to have been on a higher rate. At the time of acquisition, the acquired land was irrigated, three Fasli and which is of a very high fertile category and due to its acquisition the claimant had suffered heavily and the compensation determined by the SLAO was therefore stated to be highly inadequate and liable to be set aside.

(vi) The claimants further alleged that the SLAO had not conducted any proper spot inspection at the time of acquisition of the land. It was also contended that the sale deeds presented by the claimants had been discarded and the award is arbitrary and unsustainable in the eyes of law. The prices of the acquired land are getting appreciated on the daily basis, but while determining the compensation, the SLAO has not considered all these aspects. The acquired land is very near to the industrial area and many factories 2026:UHC:3725 are established due to which the rates of the acquired land are getting appreciated.

(vii) The aforesaid reference was registered as L.A. Case No.15 of 2006, 'Smt. Archana Shukla vs. State of Uttarakhand & Others', in the court of District Judge, Haridwar.

(viii) The District Magistrate, Haridwar, contested the aforesaid reference by filing WS, and therein it was contended that the award dated 28.12.2005 passed by the SLAO is as per law, and market rate has been determined as per law and therefore, reference deserves to be dismissed.

(ix) The defendant No.4/Tehri Hydro Development Corporation Ltd. also contested the aforesaid reference by filing its written statement, wherein it was contended that the claimant has not disclosed any basis for the rate of the acquired land at the rate of Rs.7,50,000 per bigha. The SLAO has determined the rate of the acquired land after considering the entire circumstances, and in fact

it is on the higher side. The plant of the BHEL is not near to the acquired land. The location of the acquired land is clear from the fact that there is no Pakka road near it and till the notification under Section 4 of the Land Acquisition Act, the SIDCUL 2026:UHC:3725 was not developed. The notification for the establishment of the SIDCUL was published in the year 2002. The claim of the claimant that he had purchased the disputed land for the purpose of agriculture is wrong because the claimant is resident of Rishikesh and cultivating six bighas land for agriculture is not profitable. The Collectorate is very far away from the property in question and at the time of acquisition, there was no development of the land which falls in between. It appears that the claimant had some information about the acquisition of the land and for getting undue benefit had purchased the land in question. Before determining the compensation amount, the SLAO had conducted spot inspection and he had given decision after proper perusal of the sale deeds placed on record. The averment of the claimant that the SLAO has not properly perused the sale deeds and has passed the award in an arbitrary manner is absolutely wrong. It was also contended that for development of the acquired land, the expenses which were incurred has also been kept in mind. The acquired land is near river and for developing it, there is possibility of huge expenses and even thereafter, there was a great expense incurred in developing the acquired land.

2026:UHC:3725

5. On the basis of the rival pleadings of the parties, the following issues were framed by the Reference Court that

- (1) Whether the compensation granted by the SLAO, vide award dated 28.12.2005, in respect of the acquired land/property in question, is insufficient and not awarded in accordance with the prevailing market rate as stated in the reference? (2) To what relief, if any, are the claimants entitled?

6. After going through the record, the Reference Court found that the SLAO has considered 144 sale deeds, out of which one sale deed was adopted as the exemplar sale deed on the basis of which the market rate was determined. However, while determining the market rate, the Reference Court came to the conclusion that the criteria of deducting 50% from the market rate, was not proper. The SLAO though had made a deduction of 50% from the market rate while determining the compensation rate, however, while deciding the Issue No.1, after considering the manner in which the rate on which the compensation was to be granted, the Reference Court considered the submissions advanced on behalf of the learned counsel for the claimant, who submitted that the ground in which the deduction of 50% has been made the same has not been portrayed by the State. It was further submitted before the Reference Court that, in respect of other awards relating to similarly situated lands, the same sale deeds had been relied upon, but only a deduction of 10% 2026:UHC:3725 had been applied but the same will not be applicable in the case of the claimant because the land of the claimant is situated at a distance of more than 100 - 150 meters from the river, and claimant has not given any evidence that it is of Abadi land.

7. After considering the submissions of the learned counsel for the parties, the Reference Court came to the conclusion that the deduction of 50% from the market value was excessive and

unjustified. Consequently, the Reference Court held that, instead of a deduction of 50%, a deduction of 30% would be appropriate for determining the compensation payable to the claimant. Accordingly, the reference was partly allowed, and the Reference Court modified the deduction from 50% to 30% while determining the compensation amount, vide judgment and order dated 26.09.2014. The following point arises for determination in the first appeal as follows:-

"Whether the Reference Court was justified in reducing the deduction made by the SLAO from 50% to 30%?"

8. Assailing the aforesaid judgment and order dated 26.09.2014, learned counsel for the appellant would submit that the impugned Judgment and order is one of its kind where the Reference Court in the whole of the Judgment running into 16 pages nowhere gave any finding or reasoning or justification for reaching the conclusion that 30% 2026:UHC:3725 deduction from the value of the exemplar deed is just, proper and reasonable and not 50%, which admittedly was carried out as per the provisions of Land Acquisition Manual.

9. He would further submit that the Reference Court nowhere discussed the reasoning given by the SLAO, as supported by the defendants in their evidence, and as how it disagrees with the same and on what grounds and basis.

10. He would further submit that a very peculiar and pertinent issue has not at all been taken consideration by the Reference Court which was specifically brought to its kind notice and the same was that the very same court has declined to interfere and grant relief in other 20 Land reference cases arising out of the same award dated 28-12- 2005, preferred by similarly situated persons and vide its well reasoned, just and proper Judgment and order dated 20-09- 2012 dismissed the Land Reference cases.

11. He would further submit that another pertinent issue has not at all been taken consideration by the Reference Court which was specifically brought to its kind notice and the same was that the very same court has declined to interfere and grant relief in other Reference cases arising out of and assailing the same award and out of those, in two matters namely Land Reference no. 17 of 2006 Krishnpal V. State of Uttaranchal and Land Reference no. 19 of 2006 Mithlesh Verma V. State of Uttaranchal, appeal was preferred 2026:UHC:3725 before this Hon'ble court and the same too have been dismissed.

12. He would further submit that the Reference Court failed to take into consideration the fact that admittedly an amount of more than 8 crores, which is almost equal the amount paid for acquisition, has been spent by the defendant authorities in making the land in question habitable which otherwise was absolutely undeveloped and inhabitable surrounded on two sides by river and on one side by Forest having no approach and thus the deduction of 50% from the value of the exemplar deed was proper, legal and justifiable since now it is admitted that 50% more has been spent to make the land habitable.

13. Justifying the 50% deduction, learned counsel for the appellant stated that the boundaries of the acquired land have not been disputed, from which it is clear that though the acquired land is situated only about two to three kilometres away from the district headquarters, but there was no pakka road connecting to the said land. Towards the East of the acquired land, there is a land of the Forest Department, Towards the West, there is a river; and towards the North, there is another seasonal river from which it is clear that except for agricultural use, the land is not suitable for any other purpose until and unless a lot of expenditure is incurred for making it suitable for residential purposes.

2026:UHC:3725

14. It is further contended that there is no pakka road for having access to the acquired land and that the acquired land was sandy, uneven and un-irrigated and since river existed nearby, only one crop could be cultivated in a year on the said land. There had never been any residential establishment or essential facilities near the acquired land. For providing access to the acquired land, levelling the same and making it suitable for construction, the Department, since the year 2005, has entailed an expenditure of more than Eight Crore Rupees on the same, and only thereafter has the said land become suitable for residential and non- agricultural purposes. The defendant's witness has also deposed that for development of the acquired land and for providing community facilities, irrigation facilities, construction of internal roads, drinking water facilities, electrification and flood control works, more than Eight Crore Rupees have been spent, which fact was not disputed by the claimants.

15. It was also pointed out by the learned counsel for the appellant that the total expenditure incurred in acquisition of the land, including its market value, value of trees, solatium, additional amount and interest, was determined at 9.20 crores, whereas for making the acquired land suitable for agricultural and residential purposes, the acquiring department had to incur further expenses of more than 8 crores. Therefore, in the facts and circumstances of 2026:UHC:3725 the case, if the SLAO has made a deduction of 50% in the exemplar sale deeds, the same would be proper and justified.

16. The learned counsel for the appellant has relied upon the judgment of the Hon'ble Supreme Court in the case of 'Shankarrao Bhagwantrao Patil etc. vs. State of Maharashtra' reported in (2022) 15 SCC 657, particularly paragraph nos. 13, 14, 15 and 16 wherein the Hon'ble Apex Court observed as under:-

13. The question of deductions on account of an exemplar of a smaller plot as compared to a larger area under acquisition has come up for consideration before this Court in *Chimanlal Hargovinddas v. LAO* [*Chimanlal Hargovinddas v. LAO*, (1988) 3 SCC 751]. This Court held as under : (SCC pp. 757 & 760, paras 8 & 12) "8. ... The first two grounds are devoid of merit. It is common knowledge that when a large block of land is required to be valued, appropriate deduction has to be made for setting aside land for carving out roads, leaving open spaces, and plotting out smaller plots suitable for construction of buildings. The extent of the area required to be set

apart in this connection has to be assessed by the court having regard to the shape, size and situation of the concerned block of land, etc. There cannot be any hard and fast rule as to how much deduction should be made to account for this factor. It is essentially a question of fact depending on the facts and circumstances of each case. It does not involve drawing upon any principle of law. ...

12. In the result appellant must be awarded compensation at Rs 7000 per acre subject to deduction or allowance of 25% to account for land required to be set apart for roads, open spaces, etc. In other words, the appellant will be entitled to be paid compensation for 13 acres 7 gunthas comprised in Survey No. 85 at Rs 5250 per acre (Rs 7000 less 25 per cent i.e. less 1750 = Rs 5250) in place of the lesser sum awarded by the High Court. Appeal must be partly allowed to this extent accordingly."

14. In the aforesaid case, reliance of the landowners was on an exemplar which reflected the sale price of Rs 20,000 per acre which was situated on the Ganeshkhanda Road as against Rs 7000 per acre assessed by the High Court. The 2026:UHC:3725 Court noticed that the unloading was Rs 13,000 per acre which works out at 65%.

15. In the judgment reported as Lal Chand v. Union of India [Lal Chand v. Union of India, (2009) 15 SCC 769 :

(2009) 5 SCC (Civ) 766] , this Court held that deduction for development is to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development) the deduction varies from 20% to 75% of the price of such developed plots. This Court held as under :

(SCC pp. 779-80, paras 13-15 & 22) "13. The percentage of "deduction for development" to be made to arrive at the market value of large tracts of undeveloped agricultural land (with potential for development), with reference to the sale price of small developed plots, varies between 20% to 75% of the price of such developed plots, the percentage depending upon the nature of development of the layout in which the exemplar plots are situated.

14. The "deduction for development" consists of two components. The first is with reference to the area required to be utilised for developmental works and the second is the cost of the development works. For example, if a residential layout is formed by DDA or similar statutory authority, it may utilise around 40% of the land area in the layout, for roads, drains, parks, playgrounds and civic amenities (community facilities), etc.

15. The development authority will also incur considerable expenditure for development of undeveloped land into a developed layout, which includes the cost of levelling the land, cost of providing roads, underground drainage and sewage

facilities, laying water lines, electricity lines and developing parks and civil amenities, which would be about 35% of the value of the developed plot. The two factors taken together would be the "deduction for development" and can account for as much as 75% of the cost of the developed plot.

22. Some of the layouts formed by the statutory development authorities may have large areas earmarked for water/sewage treatment plants, water tanks, electrical substations, etc. in addition to the usual areas earmarked for roads, drains, parks, playgrounds and community/civic amenities. The purpose of the aforesaid examples is only to show that the "deduction for development" factor is a variable percentage and the range of percentage itself being very wide from 20% to 75%."

16. This Court in the judgment in *Kasturi v. State of Haryana* [*Kasturi v. State of Haryana*, (2003) 1 SCC 354] , held that there may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. This Court held as under : (SCC pp. 359-60, para 7) "7. ... However, in cases of some land where there are certain advantages by virtue of the developed area around, it may help in reducing the percentage of cut to be applied, as the developmental charges required may be less on that 2026:UHC:3725 account. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges, maybe in some cases it is more than 1/3rd and in some cases less than 1/3rd. It must be remembered that there is difference between a developed area and an area having potential value, which is yet to be developed. The fact that an area is developed or adjacent to a developed area will not ipso facto make every land situated in the area also developed to be valued as a building site or plot, particularly when vast tracts are acquired, as in this case, for development purpose."

17. The learned counsel for the appellant has further placed reliance upon the judgment of the Hon'ble Supreme Court in the case of '*Mala and others v. State of Punjab and others*' reported in (2023) 9 SCC 315 particularly paragraph no. 11 thereof, which reads as under:

"11. The size and nature of the lands acquired and size and nature of the lands in respect of which sale instances are produced on record, also would be an important aspect inasmuch as normally the sale instances of small piece of land cannot form reasonable basis to determine the market value of large chunk of land, unless suitable deductions are made in respect of development charges. How much deductions should be made would depend on the nature of land, its topography, special features and state of its development so as to make it suitable for the purpose for which it is acquired."

18. In the aforesaid background, learned counsel for the appellant would submit that the deduction modified by the Reference Court from 50% to 30% was wholly unjustified, bereft of any reasons and

without any reason. It was contended that the modification made by the Reference Court 2026:UHC:3725 was arbitrary and, therefore, the impugned judgment deserved to be set aside to that extent.

19. After considering the entire facts and circumstances of the case, perusing the record, and examining the case law cited on behalf of the appellant, it is evident that though at the time of passing the award, the SLAO had considered a deduction of 50% for determining the rightful compensation, however, the Reference Court, without assigning cogent reasons and without there being any material on record, has modified the award of the SLAO and resorted to the deduction from 50% to 30%.

20. From the record, it is apparent that the acquired land was completely undeveloped and was not suitable either for residential or agricultural purposes at the time of acquisition. The land was situated near a river and was surrounded by two rivers and forest land. There was no proper access to the land, and the land itself was uneven. Evidence on record further indicates that more than Rs.8 crores had to be incurred in making the land suitable for agricultural, residential, and other purposes, including the construction of internal roads, drinking water facilities, electrification, and flood-control measures.

21. In view of the aforesaid discussion, the modification of deduction from 50% to 30% by the Reference Court, without assigning any reasons and contrary to the 2026:UHC:3725 evidence on record, cannot be sustained. Accordingly, the impugned judgments and orders dated 26.09.2014 passed by the learned District Judge, Haridwar, are liable to be set aside to that extent, and the awards passed by the SLAO wherein there were deduction of 50% deserve to be upheld.

22. These two First Appeals are allowed in the aforesaid terms.

23. Let the original records be transmitted to the court concerned.

(Siddhartha Sah, J.) 14.05.2026 Akash AKASH DN: c=IN, o=HIGH COURT OF UTTARAKHAND, 2.5.4.20=dae2472c001d56469ea76fc0caa68f48ef7351 8c148d140566ab1e26f9cbe61d, postalCode=263001, st=Uttarakhand, serialNumber=27096a1625377537a487dee49224c891 823fc6a0334628b21e516047ed4f22f7, cn=AKASH Date: 2026.05.20 10:19:13 +05'30'