

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,  
GILGIT.**

**Before:-**

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.  
Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 17/2018**

**in**

**CPLA No. 39/2017**

Provincial Government & others

**Petitioners.**

**Versus**

Muhammad Gul & 19 others

**Respondents.**

**PRESENT:-**

1. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal, Deputy Advocate for the petitioners.
2. Malik Kifayat-ur-Rehman Advocate for respondents.

**DATE OF HEARING: - 21.05.2018.**

**JUDGMENT.**

**Dr. Rana Muhammad Shamim, CJ.....** This petition has arisen out of the impugned judgment dated 17.08.2016 in Civil First Appeal No.09/2014 passed by the learned Chief Court whereby the said Civil First Appeal filed by the petitioners was dismissed by maintaining the judgment dated 13.03.2014 passed by the learned Land Acquisition Judge District Ghizer, hence, this petition for leave to appeal. This court vide order dated 04.04.2017 and the case is heard today.

2. Briefly, the facts of the case are that the Deputy Commissioner/ Collector Ghizer vide Award bearing No. DK-(1)/155-1-52 dated 05.05.2005 had acquired 20 Kanals and 12 Marlas of land of the petitioner for the project of Government Boys Inter College Gupis. The Revenue Field Staff prepared compensation

papers and on the recommendation of Assistant Commissioner Gupis, the Deputy Commissioner/Collector Ghizer fixed the compensation amount of the said acquired land at the rate of Rs. 70,000/- (rupees seventy thousand only) per Kanal alongwith 15% compulsory acquisition charges. The respondents received the compensation under protest as the paid compensation was not fixed at prevailing market rates of lands of the respondents. Being aggrieved by and dissatisfied with the said award, the respondents filed Civil Suit/Reference No. 01/2006 in the Court of learned Land Acquisition/District Judge Ghizer which upon hearing was allowed and directed the petitioners to pass additional award of the acquired land of the respondents by enhancing compensation amount from Rs. 70,000/- per kanal to Rs. 120,000/- per kanal with 8% compound interest. The petitioners feeling aggrieved, filed Civil First Appeal No. 09.2014 in the learned Chief Court which upon hearing was dismissed by maintaining the judgment dated 12.03.2014 passed by the leaned Land Acquisition/District Judge Ghizer, hence, this petition for leave to appeal.

3. The learned Advocate General submits that the acquired land of the respondents was barren land and the compensation amount of Rs. 70,000/- per kanal paid to them was on the basis of said barren land. He also submits that notices under Section 6 & 9 of The Land Acquisition Act, 1894 were issued to the respondent but no objection was raised from the respondents regarding the measurement of the land and fixation of rates at that time. Per

learned Advocate General, the said land was barren, grassy and not cultivable, however, compensation was assessed as per cultivable rates keeping in view the cultivability of the land in future. The award was passed in due time and compensation was also paid accordingly. He submits that the learned Land Acquisition/District Judge Ghizer has wrongly allowed enhanced the compensation amount from Rs. 70,000/- per kanal to 120,000/- per kanal alongwith 8% compound interest per annum merely on the statement of PW-01. He adds that the oral evidence of the persons was did not reside in the locality rather the land under sale deed is situated more than two (02) kilometers away from the suit land. He submits that the learned Courts below fell in error while passing the impugned judgments, hence, the same are not sustainable. He prays that the concurrent findings of the learned Courts below may graciously be set aside.

4. On the other hand, Malik Kifayat-ur-Rehman, the learned counsel appearing on behalf of the respondents supports the concurrent findings of the learned Courts below. He contends that the Award bearing No. DK-(1)/155-1-52 dated 05.05.2005 passed by the Deputy Commissioner/Collector is against the mandatory provisions of The Land Acquisition Act, 1894. He reiterates that the then District Attorney had clearly admitted that the existing rates of compensation mentioned by the respondents in their application addressed to the collector are based on facts and ground realities as the existing compensation rates does not

compete with the rate prevail in the general market. He submits that the learned Courts below have rightly passed the impugned judgments/orders. He prays that the concurrent findings of the learned Courts below may pleased be maintained being well reasoned and well founded.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the concurrent findings of the learned Courts below. In our considered view, the respondents being owners of the property could not be deprived of their rights of compensation on their acquired land. It may suffice to observe that the learned Courts below have recorded concurrent findings of facts on the basis of evidence on record. The learned Chief Court while concurring with the views taken by the learned Land Acquisition/District Judge at Ghizer does not appear to have suffered from misreading or non-reading of evidence. Further, the learned Advocate General also could not point out any infirmity or illegality in the well reasoned impugned judgment passed by the learned Chief Court, hence, interference into concurrent findings of the Courts below is not warranted by this Court.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned judgment dated 17.08.2016 in Civil First Appeal No.09/2014 passed by the learned Chief Court and the judgment

dated 13.03.2014 in Civil Suit/Reference No. 01/2014 passed by the learned Land Acquisition/District Judge Ghizer are affirmed.

7. The appeal is dismissed in above terms.

**Chief Judge.**

**Judge.**