
(2025) 05 J&K CK 0348
In the Jammu And Kashmir High Court
Case No : CM No. 6687 Of 2022

Abdul Ghani

APPELLANT

Vs

Union Territory of Jammu and Kashmir

RESPONDENT

Date of Decision : 31-05-2025

Acts Referred:

Citation : (2025) 05 J&K CK 0348

Hon'ble Judges : Rahul Bharti, J

Bench : Single Bench

Advocate : Waqar Hussain Shah, Nazia Fazal, Monika Kohli

Final Decision : Disposed Of

Judgement

Rahul Bharti, J

1. The petitioner at the time of filing of the writ petition on 14.11.2022 was reportedly aged ninety (90) years meaning thereby as on date he must be about 93-94 years' old.
2. The cause of action for the petitioner to come up with the institution of the present writ petition was relatable to his concern that he being the owner of the land measuring 10 kanals in khasra No. 210 situated in village Thanna, tehsil Thannamandi, district Rajouri, was being bothered by the fact that Border Road Task Force (BRTF), which was constructing a road from Rajouri to Thannamandi was proposing to construct another bye-pass road to pass through said land measuring 10 kanals under khasra No. 210 of the petitioner without adopting due course of law in terms of acquisition and compensation payment.
3. In this regard, it is pleaded in the writ petition that on 12.11.2022, the respondents No. 3 and 4 i.e. Sub Divisional Magistrate (SDM), Thannamandi and SHO, Police Station, Thannamandi had emerged on the scene along with men and machinery to grab the land of the petitioner so as to undertake the construction of road to pass through the petitioner's land. This is what is the sum

and substance of the petitioner's case in the entire writ petition.

4. In support of his writ petition, the petitioner has annexed nakal khasra girdawari of 2022 which establishes the fact that in khasra No. 210 of Mouza Thanna, tehsil Thannamandi, the petitioner is recorded to be the owner in cultivating possession of the said land.

5. The khasra girdawari of 2022 is coinciding with the institution of the writ petition in 2022 meaning thereby the petitioner had come forward with the latest revenue record in his favour to establish his status of being the owner. That being so, it cannot be heard to be said by anyone much less from the Govt. of UT of Jammu and Kashmir or for that matter Public Authorities/Administrators concerned, whomsoever those may be, that the proprietary land of a citizen of India can be forcibly taken over on the pretext of public interest/cause unmindful of the due process of law.

6. Reply to the writ petition has been filed by the respondent Nos. 2 and 3 i.e the Deputy Commissioner, Rajouri and the Sub Divisional Magistrate, Thannamandi wherein it is being submitted that a road is being constructed by the Border Road Organization (BRO) as an Indenting Department and that on 12.11.2022 the Tehsildar, Thannamandi along with other officials, for following due process of law for acquisition of land for Rajouri-Thannamandi-Surankote road as per DPR, were peg marking the land so as to prepare the revenue papers for facilitating the land acquisition exercise but the team of revenue officials were subjected to pelting of stones from the end of the petitioner and his family. However, it has not been stated in the reply by the respondent Nos. 2 and 3 i.e Deputy Commissioner, Rajouri and Sub Divisional Magistrate, Thannamandi as to whether in the DPR, the petitioner's land is coming in an alignment of the proposed road or not.

7. Be that as it may, this writ petition is disposed of with a direction to the Deputy Commissioner, Rajouri, as being the administrative head of District Rajouri, to consider the case of the petitioner as to whether his ownership land whatsoever extent comprised in khasra No. 210 of mouza Thanna, tehsil Thannamandi, district Rajouri is being proposed to be usurped or used for any road carving purpose or not without adopting due process of law including even the process of survey of the land intended before acquisition as the same is also intended and expected to be carried out by following some semblance of procedure by notifying land owner/s to be affected with a due notice about visit and inspection of the targeted land by the revenue officials but not to carry out surprise intrusion into the land of the land owner/s in the name of carrying out the demarcation or identification or as has been said peg marking.

8. The petitioner is directed to report himself before the Deputy Commissioner, Rajouri on 16.06.2025 with a copy of this order whereupon the Deputy Commissioner, Rajouri shall ensure to apprise the petitioner or for that matter any of his family members as to the true state of facts related to any intended acquisition relatable to the petitioner's land and the details thereof, without doing

which, the petitioner's possession qua the land comprised in khasra No. 210 in terms of his ownership not to be disturbed.

9. Connected application(s), also stands disposed of accordingly.