

(2020) 02 J&K CK 0084

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 524 Of 2010

Des Raj And Others

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 11-02-2020

Acts Referred:

State Land Acquisition Act, 1990 — Section 4, 6, 9, 9(A)

Citation : (2020) 02 J&K CK 0084

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : Ashwani Thakur, S.S. Nanda

Final Decision : Disposed Off

Judgement

1. The petitioners have filed the present petition praying for a direction to the respondents to withdraw the land of the petitioner from acquisition and not to interfere in their possession. In the alternate, it is prayed that if it is not feasible, the respondents be directed to pay compensation to the petitioners for the land owned by them.

2. Learned counsel for the petitioners submitted that the State had issued notification under Section 4 of the State Land Acquisition Act, 1990 (for short, the Act of 1990) on 22.02.2010 seeking to acquire land for construction of National Highway at Lakhanpur. Thereafter, no process was initiated and the possession of the land of the petitioner is sought to be taken without paying any compensation. The crops standing thereon were sought to be destroyed. The respondents need to be restrained or in the alternate, they should be directed to pay due compensation to the petitioners after acquisition of land by following due process of law.

3. On the other hand, learned counsel for the respondents submitted that after the issuance of notification under Section 4 of the Act of 1990,

notification was issued under Section 6 on August 20, 2010 and thereafter the award was announced by the Collector, Land Acquisition on

28.07.2011. Total sum of ₹ 3,21,12,332/- was assessed as compensation including the cost of structures and non fruit bearing trees standing on the

acquired land. Out of the aforesaid amount, ₹ 2,72,44,820/- already stands disbursed to some of the land owners. Due process was followed for the

purpose.

4. Heard learned counsel for the parties and perused the paper book.

5. The petitioners had approached this Court at this stage when merely notification under Section 4 of the Act of 1990 had been issued on 22.02.2010.

As the present petition was filed in this Court on 26.04.2010. While issuing notice on 11.05.2020, this Court passed the following orders:

“In the meantime, the respondents, shall not take possession save in accordance with law.”

6. It is evident from the stand taken by the learned counsel for the respondents that after the issuance of the notification under Section 4 of the Act of

1990 on 22.02.2010, notification under Section 06 was issued on 20.08.2010 and thereafter notices under Sections 9 and 9-A of the Act of 1990 were

issued on 12.11.2010. Some of the land owners appeared before the Collector Land Acquisition and raised objections regarding the valuation of the

land. After considering the same, the Collector assessed the compensation vide award dated 28.07.2011 to the tune of ₹ 3,21,12,332/-, which included

the cost of structures and the non fruit bearing trees standing on the acquired land. Part of the compensation stands paid to some of the land owners.

Final award could not be passed as there was interim stay granted by this Court.

7. As the petitioners themselves had prayed that possession of land owned by them could not be taken without following due process of law and in the

present case, the respondents have followed the due process of law for acquisition of the land, the contention of the petitioner stands rejected. As far

as payment of compensation is concerned, certainly the petitioners whose land has been acquired are entitled to the same. Draft award has already

been prepared. Major amount of compensation, in fact, has been paid to some of the land owners which may include even the petitioners. However,

final award could not be passed because of the interim stay granted by this Court. Now the Collector shall be at liberty to pass the final award without any delay preferably within one month from the date of receipt of copy of the order and whatever amount of compensation to which the petitioners are entitled to, the same should be paid to them. Objections, if any, filed by the land owners disputing the amount of compensation should be referred to the learned District Judge concerned by the Collector within a period of three months after the announcement of the final award.

8. This petition is disposed of in the manner indicated above.