

(2013) 12 J&K CK 0004

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 550/13 and CMA 739/13

G. Mustafa Sheikh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 30-12-2013

Acts Referred:

Citation : (2014) 2 JKJ 419

Hon'ble Judges : Dhiraj Singh Thakur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dhiraj Singh Thakur, J.—Acquisition proceedings came to be initiated by the respondents for acquiring the land for widening of road from

2nd Tawi bridge to DC Office. Petitioner states that the he was in possession of land measuring 3 marlas and one sq.ft. falling under Survey No.

341 min., at Gujjar Nagar, which was initially the State land but subsequently, came to be regularized in the name of the petitioner vide mutation

No. 1391. Over the said piece of land, the petitioner raised the construction of a house and two shops on the road side. It is stated that the

petitioner was not averse to the acquisition proceedings, however, was objecting to the assessment of compensation vis-à-vis structure and the

land underneath it. It is stated that the compensation in regard to the demolished structure was assessed, however, in regard to the land measuring

242 sq.ft., the respondents refused to pay any compensation on the ground that the same was State land ignoring the fact, that it was, in facts,

State land which subsequently came to be regularized in favour of the petitioner of which, now, he had become the owner.

2. It is in these circumstances, the petitioner prays for issuance of a writ of mandamus commanding the respondents to pay compensation for the land measuring 242 sq.ft. at the market rate with a further direction to re-assess the compensation on account of the demolished structure and also pay interest thereon.

3. Objections have been filed by the respondent-State, wherein it is stated that the petitioner is not entitled to any compensation on the ground that the land measuring 242 sq.ft. of which compensation is sought, belongs to the State. It is further stated that compensation in regard to the structure has been assessed and paid to the petitioner after deduction of income tax as the rules. It is further stated that a final award was issued by the respondents vide award Dt. 27.9.2010. It is stated that the petitioner has already applied for reference u/s 18 and 31 of the Land; Acquisition Act (for short Act) for settlement of award before the learned District Judge vide letter No. LA/1083 Dt. 28.2.2012.

4. Heard learned counsel for the parties.

5. This court cannot decide the issue as regards title between the petitioner and the respondent-State in regard to the land measuring 242 Sq.ft., which the petitioner claims to be regularized in this favour and the respondents claim the same to be the State land. The right of the petitioner to receive compensation in regard to the land utilized for purposes of widening of the road was to be governed by the provisions of the Act, which is a complete Code in itself.

6. Section 11 of the Act provides for an enquiry by the Collector inter alia with respect to the interests of the persons claiming compensation whereafter the award follows in terms of Section 11(4) of the Act. The award of the Collector in terms of Section 12 of the Act is final and conclusive evidence as between the Collector and the persons interested. The only remedy available to a person who has not accepted the award, is by way of reference u/s 18 of the Act, which has already been filed by the petitioner, in regard to his entitlement of enhanced compensation for demolished structure. This court, independent of the provisions of the Act, cannot adjudicate upon the dispute regarding interests of the petitioner over land measuring 242 sq.ft., which is stated to be State land by the respondents in the light of revenue entries and order compensation to be

paid by the respondents to the petitioner, as has been prayed in the present writ petition. This petition, therefore, is found to be devoid of any merit and is, accordingly, dismissed.