

(2025) 03 J&K CK 0464
In the Jammu And Kashmir High Court
Case No : WP(C) No. 3167 Of 2023

Ghulam Hussain

APPELLANT

Vs

Union Territory of J&K and ors

RESPONDENT

Date of Decision : 03-03-2025

Acts Referred:

Land Acquisition Act, 1894 — Section 4(1), 6, 7, 11(B)

Citation : (2025) 03 J&K CK 0464

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Syed Nadeem Hamdani, Priyanka Bhat, Monika Kohli, Vishal Sharma

Final Decision : Disposed Of

Judgement

Rajnesh Oswal, J

1. The petitioner has filed the present petition for quashing the award dated 25.04.2022 passed by the Collector Land Acquisition-respondent No. 2 herein by virtue of which the land, trees and the residential houses constructed thereon have been acquired but without the payment of the compensation according to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Act of 2013") and further directions have also been sought to the respondents to pass the award under the provisions of the Act of 2013.

2. It is stated that the notice under section 4(1) of the Land Acquisition Act that was issued on 11.08.2020 and the final award was issued on 25.04.2022. It is contended that the respondents were under obligation to initiate the proceedings afresh under the Land Acquisition Act, 2013 and further that the proceedings under the Land Acquisition Act, 1990 stand lapsed in view of section 11-B of the Land Acquisition Act.

3. The respondents have filed the response stating therein that 100 kanals and 5 sarsai of land situated at Village Buffliaz Tehsil Surankote, District Poonch was

required for public purpose, for widening of Rajouri-Thannamandi-Surankote double lane road by GREF and accordingly, notice under section 4(1) of the Land Acquisition Act dated 30.09.2019 was issued thereby calling objections, if any, before the Collectorate within fifteen days from the date of issuance of notification and the copy of the notification issued under section 4(1) was sent to Manager, Government Press, Jammu for publication of the same in the Government Gazette and the Tehsildar Surankote also directed for effecting service of the said notice upon the interested persons including the petitioner. No objections were received during the prescribed period and the case was submitted to the Government through Divisional Commissioner, Jammu for declaration under section 6 and order under section 7 of Land Acquisition Act and the notification dated 10.03.2021 was issued under sections 6 and 7 of the Land Acquisition Act thereby declaring the requirement of land measuring 100 kanals and 5 sarsai situated at Village Buffliaz for public purpose in due course of law as mandated under the J&K Land Acquisition Act. It is further stated that the answering respondent vide notice dated 19.03.2021 issued notice 9 and 9-A of the Land Acquisition Act informed all the interested persons to attend his office personally or by agent within a period of 15 days. A copy of the said notice was sent to Manager Government Printing Press, Jammu for publication in the next issue of Government Gazette for objections, if any. As no objections were received in response to aforesaid notice, the instant matter was placed before the Collector's meet, wherein after threadbare deliberations over the subject matter, an amount of Rs. 3.50 lacs per kanal for irrigated land and Rs. 3.25 per kanal for unirrigated plus 15% jabrana was approved. It is further stated that after seeking prior approval from the District Collector, Poonch, the final award was issued. The copy of the final award was immediately communicated to indenting department for releasing the award amount so that landowners are disbursed the land compensation at the earliest. The Indenting Department released the award amount and the same was placed at the disposal of the answering respondent for onward disbursement to the bonafide land owners whose lands have been acquired for the purpose.

4. Respondent No. 4 has also filed the response to the writ petition thereby narrating the factual aspects of the case as stated by the Revenue Department.

5. Learned counsel for the petitioner has argued that the petitioner has not been paid the compensation, in terms of the final award, though the compensation for the structure has been paid, that too during the pendency of the writ petition. He has further argued that the acquisition proceedings stand lapsed in view of section 11-B of the Land Acquisition Act.

6. Mr. Vishal Sharma, learned DSGI appearing for respondent No. 4 has submitted that in WP(C) No. 2247/2021, the GREF was not made party and the notice under section 4(1) of the J&K Land Acquisition Act dated 30.09.2019 was quashed as the statement was made by the Deputy Commissioner that he was withdrawing the notification. Mr. Sharma further submitted that the whole of the

compensation has been deposited with the Collectorate.

7. Ms. Priyanka Bhat, learned counsel appearing for respondent Nos. 1 to 3 has submitted that more than 60% of the compensation has already been disbursed in favour of the landowners.

8. Heard and perused the record.

9. The sole contention raised by the petitioner is that the acquisition proceedings have elapsed in view of the section 11-B of the Land Acquisition Act. Notification under section 4 was issued on 30.09.2019 and notification under section 6 and 7 of the Act was issued on 10.03.2021. The award was passed on 25.04.2022 i.e. well within the period of two years, as such, this Court does not find any substance in the submission made by the petitioner that the acquisition proceedings had elapsed. The petitioners cannot draw the parity with the petitioners in WP (C) No. 2247/2021, as the facts are distinguishable.

10. In view of the above, the present writ petition is disposed of by directing the respondent No. 2 to release the compensation in terms of award in favour of the petitioner along with

interest at the rate of 6% per annum from the date amount was deposited by the intending department with the respondent No. 2 till the compensation is received by the petitioner.

11. Disposed of.