
(2003) 08 J&K CK 0006
In the Jammu And Kashmir High Court
Case No : OWP 542 of 1999

Ghulam Rasool Bhat

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 22-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Jammu and Kashmir Land Acquisition Act, 1990 — Section 4

Citation : (2004) 1 JKJ 416

Hon'ble Judges : Muzaffar Jan, J

Bench : Single Bench

Advocate : A. Haqani, for the Appellant; M.A. Rathore, AAG, for the Respondent

Final Decision : Dismissed

Judgement

Mujaffar, Jan, J.—The writ petition has been filed praying for quashing the award passed under Land Acquisition Act dated 27.1.1999 and

for direction to the respondents not to interfere with the land of the petitioner.

2. The main submission made in the petition are that the petitioners inherited land measuring 10 Kanals under Survey No. 76 Min, 77 Min and 78

Min, situated at K. P Road, Anantnag, form their ancestors who died 30 to 40 year back, and the petitioners continued to be in possession of the

said land. Respondent No. 2, without complying with the procedural requirements of informing the petitioners by beat drum, public notice and

other modes provided u/s 4 of the Land Acquisition Act, acquired the land in abject disregard of law passed award, without giving the petitioners

an opportunity of objecting to the acquisition proceedings. It was only on 7.7.1999 that the petitioners came to know about acquisition

proceedings and approached the official respondents with their objections, but

the pleas of the petitioners constituting 37 families, belonging to pool strata of life, were not considered by the respondents and no compensation was paid, in violation of the fundamental rights, therefore, the intervention of the court is requested to quash the award.

3. While admitting that 10 Kanals of land under Survey No. 76Min, 77Min and 78 Min situated at K.P. Road, Anantnag, was acquired for the use of fire service Department in public interest, the stand and submissions made by the respondents, in their reply, is that notification u/s 4(2) of the Land Acquisition Act, was issued strictly in accordance with law, requiring the interested persons to file objections, if any, regarding the acquisition of land. It is further submitted that since the petitioners were not shown as interested persons, in any revenue record, therefore, there was no requirement u/s 4 of the Land Acquisition Act, to issue personal notices to the petitioners before passing of the award. It is further submitted that the petitioners had acquired knowledge of acquisition proceedings on 7.7.1998, as per their admission, they could associate with the acquisition proceedings and file objections in case they had any existing interest supported by the revenue record. On these submissions, it is submitted that since acquisition proceedings have been completed by following due process of law and award dated 27.1.1999 has been passed, therefore, the writ petition, in the present form is not maintainable.

4. Heard learned counsel for the parties at length, consider the submissions and perused the record.

5. The facts which are not denied but are admitted are, that the petitioners are claiming title as owners in the land through their ancestors, who died 30 to 40 years back. It is also not denied that the mutation in the names of the present petitioners has not been entered in the revenue record, and accordingly, the petitioners are not shown as owners of the acquired land. Section 4 of the Land Acquisition Act provides for notice to the interested persons and the definition of interested person would mean a notice to the person entitled to receive compensation, on the basis of existing right in the land intended to be acquired, as revealed by revenue record. In the instant case, on the admitted position that the names of the petitioners were not entered in the revenue record as owners of the land, the Collector was not bound to issue notices to the legal representatives

of the deceased owners, who were not shown as interested persons in the revenue record.

6. The submission of learned counsel for the petitioners that no notices were issued to the present petitioners, in the facts and circumstances of the

present case, would not vitiate the acquisition proceedings. The Collector, acting as an authority under land acquisition proceedings, is required to

issue notices to the interested persons, but the Collector is not required to make a roving enquiry to verify the persons who could have interest in

the land acquisition proceedings, in view of the law laid down by the Apex Court in case reported as Ahuja Industries Ltd. Vs. State of Karnataka

and Others, the relevant portion of which reads as under:-

Failure to make entries on the part of the revenue authorities by itself would not cast any obligation on the authorities under the Act to make a

roving enquiry and try to locate an owner who may have subsequently purchased the land from the previous owner. Failure on the part of the

revenue authority to make entry in the register of mutation in favour of the subsequent owner would not render the acquisition proceedings bad in

law on account of non-issuance of notice inviting objections to the acquisition proceedings or service thereof.

Therefore, the submission made by the learned counsel for the petitioners that the award has been passed against the dead persons, and, on this

ground, requires to be quashed, cannot be sustained.

In view of the above, the writ petition is without any merit and is accordingly dismissed.