
(2021) 10 J&K CK 0021

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 1100 Of 2012, IA No. 1534 Of 2012,
Civil Miscellaneous No. 3314, 3315 Of 2021

Krishan Devi And Ors

APPELLANT

Vs

UOI And Ors

RESPONDENT

Date of Decision : 12-10-2021

Acts Referred:

Citation : (2021) 10 J&K CK 0021

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : Ravi Abrol, Vishal Sharma, H.A.Siddiqui, S.S.Nanda

Final Decision : Disposed Of

Judgement

Sanjeev Kumar, J

1 In this petition, the petitioners are seeking a direction to the respondents to fix and pay the rental compensation to them for the land measuring 118 kanals, 18 marlas comprising in khasra Nos.1, 99/200 min, 90/3 min and 87/5 min falling in village Chak Gainda, Tehsil and District Kathua which is under the occupation of Indian Army for defence purpose.

2 Objections on behalf of respondent Nos. 1, 3 and 4 have been filed in which they have taken a stand that the land measuring 118 kanals, 18 marlas ['subject land'] was requisitioned for defence purpose and for which the rental compensation was deposited in the office of Deputy Commissioner, Kathua for its disbursement to the original claimants. However, subsequently, the subject land was proposed to be acquired as the same was of permanent requirement for the defence purpose. J&K Government issued No Objection Certificate vide communication dated 15.03.1990 and, accordingly, the Government of India, Ministry of Defence, accorded sanction vide letter No. 204/6/PKT/129/ACQ/NC/DE dated 26.02.2009 for acquisition of the subject land under the provisions of Requisitioning and Acquisition of Immovable Property Act, 1968 ['RAIP Act']. The

compensation at the rate of 1,25,000/- per kanal for the subject land was deposited with the Deputy Commissioner, Kathua in terms of Defence Estate Officer, Jammu Circle's communication dated 31.03.2009. It is, thus, submitted that a sum of Rs.1,48,62,500/- on account of cost of acquisition of subject land stands deposited with the Deputy Commissioner, Kathua to be disbursed to the rightful claimants.

3 Mr. Abrol, learned counsel appearing for the petitioners, submits that though the amount of compensation worked out by respondent Nos. 1, 3 and 4 for the subject land as also the rental compensation has been deposited with the Deputy Commissioner, Kathua, yet the same has not been disbursed to the petitioners so far despite there being an interim order passed by this Court on 09.08.2012 directing respondent No.5 to consider the case of the petitioners for release of unpaid rent due to them.

4 Respondent No.5 has not filed any objections.

5 Having heard learned counsel for the parties and perused the record, it is evident that the land measuring 118 kanals, 18 marlas situated in village Chak Gainda, Tehsil and District Kathua is under the occupation of Indian Army for defence purpose since 30.12.1976. It is also not in dispute that the Army Authorities have deposited the rental compensation with the Deputy Commissioner, Kathua upto the request for acquisition of land on permanent basis was made. As a matter of fact, the Army Authorities have deposited an amount of Rs.1,48,62,500/- on account of cost of acquisition of subject land with the Deputy Commissioner, Kathua for its disbursement to the rightful claimants in accordance with law.

6 It appears that the Deputy Commissioner, Kathua has not acted in the matter and has not disbursed the aforesaid compensation to the right claimants. The petitioners before me do not dispute the rate per kanal at which the compensation has been deposited by the Army Authorities, but submit that the aforesaid amount would be payable to them along with the interest that said amount must have earned during the last several years i.e from the year 2009 till date.

7 In view of the aforesaid admitted position, there is no point in keeping this petition pending awaiting the response of respondent No.5.

8 This petition is, accordingly, disposed of by permitting the petitioners to formally lodge their claim for rent as well as compensation for the land that has come under the acquisition of respondent Nos. 1, 3 and 4. A formal claim in this regard be submitted by the petitioners before the Deputy Commissioner, Kathua within a period of four weeks from today. The Deputy Commissioner, Kathua, on receipt of claim of the petitioners, shall decide the same and make the payment in favour of the petitioners, to which they may be found entitled to, within a period of six weeks. Needless to say that the amount which may ultimately become payable to the petitioners shall be paid along with applicable interest.