
(2020) 10 J&K CK 0004

In the Jammu And Kashmir High Court

Case No : Other Writ Petition No. 1684 Of 2011

Sher Mohd And Others

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 05-10-2020

Acts Referred:

Jammu And Kashmir Land Acquisition Act, 1934 — Section 4(1)

Citation : (2020) 10 J&K CK 0004

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : S.M. Chowdhary

Final Decision : Dismissed

Judgement

Rajesh Bindal, J

1. The petitioners has approached this Court seeking a direction to the respondents to attest mutation in their favour under Government order No. LB-6/C of 1958 dated 05.06.1958, with respect of land measuring 100 kanals situated in village Barote, Tehsil Basholi, District Kathua. Further direction has been sought to attest mutation in favour of the petitioner under Government order No. S-432 of 1966 dated 03.06.1966, declaring the petitioners as owners of the aforesaid land. A direction has also been sought to the respondents to pay compensation to the petitioners as the aforesaid land was acquired for construction of Ranjit Sagar Dam.

2. It is pleaded in the petition that the petitioners were in occupation of the land for a long time. The land was ultimately allotted to them in the year 1960. The same was acquired for construction of Ranjit Sagar Dam in the year 1982. The notification u/s 4(1) of J&K Land Acquisition Act, was issued on 13.08.1982. The award was announced by the Land Acquisition Collector, on 17.12.1993. It was further claimed that at the time of acquisition of the land, the petitioners were in possession of the land in question. The prayers made in the petition are in the

light of the aforesaid brief facts.

3. In the aforesaid factual matrix, in my opinion, the petitioners are not entitled to any relief. The government orders, which the petitioners may seek to rely upon for attestation of mutation in their favour, were issued in the years 1958 and 1966. The petitioners slept over the matter. Admittedly, the land in question was acquired by the State for construction of Ranjit Sagar Dam for which notification u/s 4(1) of the J&K Land Acquisition Act, was issued on 13.08.1982. The award was announced by the Land Acquisition Collector on 17.12.1993. That would mean that even the award was announced about 18 years prior to the filing of the writ petition. The petitioners kept quiet for all along. There is nothing on record to suggest that they ever raised any dispute regarding ownership of the land or apportionment of the compensation thereof with the Land Acquisition Collector by filing any objections. It cannot be denied that they were in knowledge of the acquisition of the land as they claim that they were in possession thereof at the time of acquisition. In fact the plea of they being in possession is false on the face of it. Had the possession been taken from them in the year 1993-94, they would have raised hue and cry immediately and not slept over the matter for decades.

4. It is not pleaded that the petitioners ever raised any issue when the possession of land was taken from them for construction of Ranjit Sagar Dam. It would be too late to interfere in the present petition, where the prayer is for attestation of mutation relying upon the government orders issued in the years 1958 and 1966, merely by relying earlier order passed by this Court, that too at a stage when the land already stood acquired long back and now vests in the Government. Delay and laches is one of the principle on which a litigant can be denied the relief. With delay, right is not lost but the remedy is. Reference can be made to a Division Bench judgment of this court in case titled as Farooq Ahmed vs. State of J&K and others, LPA No. 210/2019 decided on 21.08.2019.

5. To put the record straight, earlier orders passed by this Court and relied upon by the petitioner are also dealt with. In OWP Nos. 940/1995 and 828/1996, filed by the Shanker S/o Sukha Ram, direction was issued by this Court vide order dated 26.06.1998, to comply with the order passed by the Deputy Commissioner on 22.09.1973, for attestation of mutation in favour of the petitioner therein and pay compensation to him on account of acquisition of the land by the authority for construction of Ranjit Sagar Dam. The facts are quite different. Even otherwise they had approached the Court way back in the year 1995. Though even that petition may also be belated and the remedy after acquisition of land may be different.

6. In OWP No. 472/1997, direction was issued vide order dated 1.12.1999, in favour of the petitioners therein for attesting mutation and to pay the compensation to them on account of acquisition of that land. The order passed in the aforesaid case was followed in OWP No. 497/2001, decided on 14.03.2002. None of the petitioners was party to the aforesaid litigation. It is not a chain

reaction that is required to followed from one case to another. What is required to be considered is the original cause of action, as the judgments of the Courts do not give cause of action. These only enforce the rights.

7. For the reasons mentioned above, I do not find any merit in the present appeal, same is accordingly, dismissed.