
(2026) 01 J&K CK 1152
In the Jammu And Kashmir High Court
Case No : WP(C) No. 224 Of 2021

Talat Kouser & Ors

APPELLANT

Vs

UT of J&K & Ors

RESPONDENT

Date of Decision : 05-01-2026

Acts Referred:

Constitution of India, 1950 — Article 300(A)
Land Acquisition Act, 1894 — Section 35

Citation : (2026) 01 J&K CK 1152

Hon'ble Judges : Rahul Bharti, J

Bench : Single Bench

Advocate : P. N. Raina, J. A. Hamal, Ravinder Gupta, Sandeep Gupta, Monika Kohli

Final Decision : Disposed Of

Judgement

Rahul Bharti, J

1. The institution of this writ petition came to take place on 9. 02.2021 whereby four petitioners all being sons of late Sh. Ghulam Rasool Hamal came forward seeking writ of mandamus to the following effect:

Mandamus commanding respondents to pay an amount of Rs. 8,97,000/- alongwith interest in terms of section 35 of the State Land Acquisition Act, to the petitioners, which they have been found entitled to in final award dated 08.09.2014 passed by respondent 02 for acquisition of their land measuring 01 kanal and 04 marlas in Khasra No. 5339/5332/4214, for widening of National Highway from Hasti (Bazdar Basti) to Malipeth, Village Kishtwar, Tehsil & District Kishtwar and which they have not been paid till date.

2. The cause of action for the petitioners to come forward with the present writ petition is relatable to land acquisition award No. ACR/LA/2014/539-44 dated 08.09.2014 passed by the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar in terms whereof 127.17 kanals of land came to be acquired

for widening of the National Highway from Hasti (Bazdar Basti) to Malipeth, village Kishtwar, tehsil & district Kishtwar.

3. Acquired land of 127.17 kanals was spread in different khasra numbers of village Kishtwar. The total compensation assessed and payable for 127.17 kanals of acquired land came to be Rs. 9,78,05,039/-.

4. Insofar as the acquisition of land relatable to khasra Nos. 5339/5332/4214 is concerned, the said khasra numbers find mentioned at serial Nos. 6, 7, 8, 9, 10, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46 & 47.

5. Reckoning themselves entitled to earn the compensation for their 1.4 kanal of land in acquisition by reference to khasra Nos. 5339/5332/4214 min, the petitioners had made a written application to the Collector Land Acquisition, (Assistant Commissioner, Revenue), Kishtwar stating therein that they are the successors-in-interest of Ghulam Rasool Hamal and by that status they have inherited the estate of the deceased Ghulam Rasool Hamal including their respective shares in Shamlet Deh land comprised in khasra Nos. 5339/5332/4214 duly attested vide mutation of inheritance upon which basis the compensation of Rs. 8,97,000/- as assessed is due for payment in their favour.

6. The aforesaid application filed by the petitioners was referred by the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar for detailed report from the Tehsildar concerned in terms of a communication No. ACR/PS/2019/11228-29 dated 22.10.2019. Furthermore, the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar in his communication No. ACR/LA.2019/24-25 dated /11/2019 addressed to the Officer Commanding, GREF-Shalimar, Kishtwar called upon the Indenting Department to deposit an amount of Rs. 8,97,000/- payable in favour of the petitioners for their 1.4 kanal of land coming in acquisition.

7. It seems that the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar was rendered handicap in making the payment of assessed compensation amount to the claimants/land owners on account of the fact that the Indenting Department of the Officer Commanding 118 RCC-GREF-Shalimar, Kishtwar had not made the deposit of the total compensation amount of Rs. 9,78,05,039/- as only Rs. 4,09,28,892/- had been advanced to the Collector Land Acquisition, (Assistant Commissioner, Revenue), Kishtwar whereas balance amount of Rs. 5,68,76,147/- was yet to be advanced to the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar for enabling him to make onward disbursement to the waiting claimants which includes the petitioners as well.

8. From the end of the Officer Commanding, 118 Road Constr Coy (GREF), communication No. 256/LA/BK/209/E2 dated 10.01.2020 came to be addressed to the Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar stating therein that the payment of balance compensation amount of Rs.

5,68,76,147/- is now to be done by the Border Road Organization (BRO) and other agencies which had taken over the project.

9. The Collector Land Acquisition, (Assistant Commissioner Revenue), Kishtwar kept on pressing the Officer Commanding, 118 RCC-GREF, Shalimar-Kishtwar with payment of balance compensation amount of Rs. 5,68,76,147/- as is born out from the communication No. ACR/LA/2020-21/724-25 dated 21.07.2020.

10. Finding themselves caught between no man's land in matter of getting the release of the compensation amount due in their favour, the petitioners came forward with the institution of the present writ petition.

11. During the pendency of the writ petition, the petitioner No. 1, namely, Irshad Ahmed Hamal breath his last on 01.05.2021 resulting in bringing on record his legal representatives who now are representing the petitioner No. 1 led by his widow-Smt. Talat Kouser.

12. From the end of the respondent No. 1-Commissioner/Secretary to Government PW(R&B) Department, reply/objections came to be filed on 24.03.2021 through Mr. Ravinder Gupta, learned AAG.

13. On behalf of the respondent No. 4-Executive Engineer, PW (R&B), Department, Kishtwar, reply came to be filed on 23.03.2021 again through Mr. Ravinder Gupta, learned AAG.

14. On behalf of respondent No. 2-Collector Land Acquisition (Assistant Commissioner, Revenue) Kishtwar, reply came to be filed on 15. 04.2021 through Mr. S.S. Nanda, learned Sr. AAG.

15. On behalf of respondent No. 3-Officer Commanding, 118 Road Constr Coy (GREF) Shalimar, Kishtwar, reply came to be filed on 23. 03.2021 through Mr. Sandeep Gupta, learned CGSC.

16. In terms of an order dated 02.03.2021 passed by the Division Bench as the present writ petition then was getting hearing from the Hon ble Division Bench, the respondents were directed either to pay compensation within a period of three weeks or to show cause by filing the counter affidavit within the same time.

17. On behalf of the respondent No. 3-Officer Commanding, 118 Road Constr Coy (GREF) Shalimar, Kishtwar, Mr. Vishal Sharma, learned DSGI had entered appearance joined by Mr. Sandeep Gupta, learned CGSC.

18. Requisite counter affidavit did not come forward from the end of the respondents No. 2 & 3.

19. The Hon ble Division Bench, by virtue of its order dated 25.03.2021 came forward with very strong worded observations to the effect that Government is not abiding by its own offer of paying compensation to the land owners as assessed and held to be payable in terms of the acquisition award dated 08.09.2014.

20. The reason for disability to pay the compensation to the land owners was referred to be the default on the part of the Public Works Department and GREF in not depositing the requisite amount with which the petitioners were held to have no concern whatsoever as the same being an internal matter of the Government inter se the Departments.

21. The Hon ble Division Bench went to the extent of holding that the petitioners cannot be held at ransom to be denied the compensation in negation of the Right to Property enshrined under article 300-A of the Constitution of India.

22. In the backdrop of the aforesaid observations, the Hon ble Division Bench, in terms of its order dated 25.03.2021, felt constrained to issue an ad interim mandamus upon the respondent No. 2-Collector Land Acquisition (Assistant Commissioner Revenue), Kishtwar to make the compensation to the petitioners as per the land acquisition award dated 08.09.2014 with interest as admissible under law within a period of one month, failing which personal appearance not only of the Collector Land Acquisition (Assistant Commissioner, Revenue), Kishtwar but also of the Chief Secretary, UT of Jammu & Kashmir was to take place.

23. Order dated 25.03.2021 so passed by the Hon ble Division literally said final words on the adjudication of this writ petition and that was enabling the payment of the deposited compensation amount in favour of the petitioners to set them free from the chain of the present litigation.

24. In terms of an order dated 03.11.2021, the requisite deposit to be made from the end of the respondents was directed to take place within three months whereupon the same to be kept in a fixed deposit.

25. An amount of Rs. 14,46,259/- came to be, thus, deposited with the Account Section of this Court on 26.11.2021 and the said amount is now lying with this Court meant for payment to the petitioners.

26. The respondent No. 1 as well as the respondent No. 4 in their respective replies came forward with the chronology of the land acquisition exercise and also the handicap created by the Indenting Department in not making available the balance amount of the compensation assessed.

27. Thus, two respondents i.e., the respondents No. 1 & 4 absolved themselves from any act of omission or commission in the matter of making payment of compensation to the petitioners. The said two respondents in their reply referred to the history of the road construction as to how from PW(R&B) Department, Division Kishtwar, the same was transferred to GREF Authorities in the year 1995 and from there to the respondent No. 3-Officer Commanding, 118 Road Constr Coy (GREF) Shalimar, Kishtwar.

28. From the end of the respondent No. 2-Collector Land Acquisition (Assistant Commissioner, Revenue), Kishtwar, there is no denial or dispute whatsoever regarding the respective entitlement of the petitioners to be the beneficiary of

the compensation amount of Rs. 8,97,000/- which, with the interest accrued thereupon, came to Rs. 14,46,259/- getting deposited with this Court on 26.11.2021.

29. If there would have been any issue relatable to the petitioners in seeking the compensation for their 1.4 kanal of land comprised in khasra Nos. 5339/5332/4214 min coming in acquisition without corresponding payment of compensation to them, the respondent No. 2-Collector Land Acquisition (Assistant Commissioner, Revenue), Kishtwar would not have entertained the applications repeatedly made by the petitioners seeking compensation before finally coming forward with the present writ petition.

30. In view of the aforesaid facts and circumstances of this case, the petitioners are held entitled to the writ of mandamus in furtherance of an ad interim mandamus issued in terms of order dated 25.03.2021 by holding them entitled to receive the compensation now lying in deposit with this Court.

31. The writ petition is, thus, allowed and the deposited compensation amount of Rs. 14,46,259/- alongwith accrued interest thereupon whatsoever be released in favour of the petitioners in four equal shares by transfer to their respective bank accounts to be provided by learned counsel for the petitioners.

32. Registrar Judicial, Jammu to do the needful within a period of one month.

33. Disposed of.

34. The detailed judgment is following the order dated 16.12.2023 vide which the writ petition was ordered to be allowed as is hereby being done.