

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Case:- WP(C) No. 2954/2023

1. Manzoor Ahmed Zargar, Age 68 years,
S/o Abdul Gani Zargar, R/o Lopa Thathri, Tehsil Thathri, District Doda.
2. Nazir Ahmed Zargar, Age 65 years,
S/o Abdul Gani Zargar, R/o Lopa Thathri, Tehsil Thathri, District Doda.
3. Mohd. Ramzan Zargar, Age 77 years,
S/o Abdul Gani Zargar, R/o Lopa Thathri, Tehsil Thathri, District Doda.
4. Nizam Din Zargar, Age 63 years,
S/o Abdul Gani Zargar, R/o Lopa Thathri, Tehsil Thathri, District Doda.

.....Petitioners

Through: Mr. S. A. Hashmi, Advocate

Vs

1. UT of J&K through Principal Secretary Power Development, Civil Secretariat, Jammu.
2. Commissioner/Secretary to Govt., Revenue Department, Civil Secretariat, Jammu.
3. Divisional Commissioner, Jammu.
4. Managing Director, J&K Power Development Corporation, Jammu.
5. Deputy Commissioner, Doda.
6. SDM (Collector Land Acquisition) Thathri, District Doda.
7. Executive Engineer, Civil Construction Division-II, Lower Kalnai Hydroelectricity Project, Thathri.

..... Respondents

Through: Mr. Ravinder Gupta, AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
22.12.2023

01. This writ petition came up for its maiden hearing on 24.11.2023 when this Court came forward with a query to the learned counsel for the petitioners as to what is the cause stated in the writ petition for the inaction on the part of the petitioners' amounting to delay and laches in coming forward in November, 2023 to question the land acquisition award no. SDM/T/LAC/212-219 dated 20.11.2017 issued by the Collector Land Acquisition (SDM), Thathri, district Doda, in which the land of the petitioners is allegedly claimed to have under acquisition. This query came to be posed by this Court to the learned counsel for the petitioners because in the writ petition itself there is not even a single whisper of reference made to explain the lapse of six years almost in running on the part of the petitioners to question the acquisition process.

02. In para 4 and 9 of the writ petition, there is an averment made by the petitioners that the possession of their respective lands was taken by recourse to section 17 of the J&K Land Acquisition Act, Svt., 1996 which took place in 2015, meaning thereby that the petitioners had come to know about the state of things coming with respect to their land and as still, the petitioners did not keep a watch on the land acquisition proceedings which resulted in issuance of the land acquisition award in 2017.

03. Thus, from 2015 onwards, the petitioners cannot be heard to say that they were not aware that some land acquisition exercise vis-à-vis their respective land had come into run and, therefore they were caught unaware of the exercise at the end of the Collector Land Acquisition (SDM) Thathri.

04. In absence of any averment in this writ petition to explain delay and laches, learned counsel for the petitioners has come forward with a case law in the form of the Hon'ble Supreme Court of India's judgments in case titled "Tukaram Kana Joshi and others Vs M.I. D. C. and others" in Civil Appeal No. 7780/2012 decided on 02.11.2012, "Sukh Dutt Ratra and others Vs State of Himachal Pradesh and others" arising out of SLP(C) No. 13202/2020 decided on 06.04.2022 and also the judgment passed by the Division Bench of this Court in OWP no. 9900001/2014 in case titled "Mohd. Latief and others Vs State of J&K and others" decided on 16.12.2021.

05. In all the aforesaid three cases, the fact position did not emerge in the manner as the one in the present case, when the petitioners right from the year 2015 became fully conscious of the fact that they have lost the possession of their respective land by reference to the land acquisition exercise undertaken at the end of the Collector Land Acquisition (SDM) Thathri. In the face of this conscious knowledge, if the petitioners reckoned right from the date of their dispossession that whatever was being resorted to under the

pretext of the land acquisition exercise by the Collector Land Acquisition (SDM), Thathri was illegal or irregular, the petitioners would not have kept themselves in a state of slumber even when the very said illegal exercise of forcible dispossession of the petitioners from their respective land had first taken place then resulting in passing of the land acquisition award in the year 2017, and then from years 2017 onwards, the petitioners still kept themselves comfortable at their respective places least bothered to feel discomfort of the fact that they have come to suffer loss of their land by an alleged exercise which as per their understanding right from the very inception was illegal and illegitimate one. Therefore, this writ petition suffers **dismissal** on account of delay and laches that too not accounted for.

06. This writ petition is, accordingly, **dismissed**.

(RAHUL BHARTI)
JUDGE

JAMMU
22.12.2023
Muneesh

Whether the order is speaking : Yes / No

Whether the order is reportable: Yes / No