

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

OWP No. 428/2017

Javid Ahmad Kochak
S/O Gh. Nabi Kochak
R/O Anantnag
At present Gupkar, Srinagar.

... Petitioner(s)

Through: -
Mr S. A. Qadiri, Advocate.

V/s

1. **Union of India through**
Defense Secretary, Government of India,
Central Secretariat, New Delhi.
2. Director General, Defense Estate, Northern Command, Jammu.
3. Chief Secretary, J&K State, Civil Secretariat, Jammu/ Srinagar.
4. Defense Estate Officer, Kashmir, Srinagar.
5. Deputy Commissioner, Anantnag.
6. Additional Deputy Commissioner, Kashmir, Srinagar.
7. Divisional Commissioner, Kashmir, Srinagar.

... Respondent(s)

Through: -
Mr Tahir Majid Shamsi, DSGI with
Ms Yasmeena, Advocate for R-1, 2 & 4;
None for R-3 & 5 to 7.

CORAM:

HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.

(ORDER)

19.12.2023

01. The Petitioner, through the medium of this Petition, has prayed for the grant of following relief(s) in his favour:

- i. By a 'Writ of Mandamus', commanding the respondents to pay the rent to the petitioner along with compensation for the land comprising of 136 Kanals and 05 Marlas situated at Fatehgarh, Anantnag;
- ii. By a 'Writ of Mandamus', commanding the respondents to vacate the land to the petitioner in case they failed to release the rent compensation, along with interest;
- iii. By a 'Writ of Mandamus', commanding the respondents to consider the representation of the petitioner and pass effective orders particularly the Deputy Commissioner to release the rent/compensation along with interest, same will be in the larger interests of justice."

02. The Respondents have filed Reply to the Petition, thereby raising some disputed questions of fact with regard to the date of taking over of the land in question.

03. Mr S. A. Qadri, the learned Counsel for the Petitioner, submits that the Petitioner has to his share only 36 Kanals and 05 Marlas, out of the total land of 136 Kanals and 05 Marlas, which is the subject matter of the Writ Petition and that he had filed this Writ Petition on behalf of the other co-sharers as well. The learned Counsel has also submitted that the Petitioner has received the rent for the period from the years 2019 to 2022, but has not received the outstanding rent amount till date, from taking over his land to the year 2019.

04. Mr Tahir Majid Shamsi, the learned Deputy Solicitor General of India (DSGI), appearing for the Respondent-Union of India, on the other hand, submitted that the land was taken over in the year 2005 and the payments with regard to rent fixed have been made available to the local Collector as per the requisition and, thus, the amount to that extent has been deposited.

05. Mr Qadri, the learned Counsel for the Petitioner, at this stage, submits that the Petitioner shall feel satisfied in the event the present Petition is disposed of with a direction to the Deputy Commissioner

(Collector), District Anantnag to consider his representation with regard to enhancement of rent fixed already, in view of the fact that the land of the Petitioner is a prime land as compared to other lands in the district for the Army, whose rents have been fixed on higher side, as such, the Petitioner is also entitled for such enhancement of rent. He further prayed that the Collector be also directed to release the rent amount from the date the land was taken over by the Army and whole of the arrears thereto be paid in favour of the Petitioner.

06. Having heard learned Counsel for both the sides and after perusal of the pleadings on record, this Petition, at this stage, is **disposed** of with the following directions:

- i. The Deputy Commissioner (Collector), District Anantnag is directed to consider the representation of the Petitioner to be filed by him with regard to enhancement of rent fixed already in relation to his land being used by the Army; and
- ii. The Deputy Commissioner (Collector), District Anantnag is also directed to consider the claim of the Petitioner for release of rent amount in favour of the Petitioner from the date the land was actually taken over by the Army and payment of whole of the arrears thereto.

07. Writ Petition is, thus, **disposed** of on the above terms, along with the connected CM(s).

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

December 19th, 2023

"TAHIR"