

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 2446/2019 CM(4673/2019)

MOHAMMAD KAMAL LONE

...Petitioner/Appellant(s)

Through: Mr. H. Furrahi, Advocate.

Vs.

STATE OF J AND K AND ORS

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA with
Mr. Faheem Shah, GA.

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

18.12.2023

1. In the instant petition filed under Article 226 of the Constitution petitioner inter-alai seeks re-assessment and re-evaluation of the property comprising of Double Storied Structure housing rice/oil Mill, shops besides, four rooms, which is stated to have been acquired by the respondents.
2. The aforesaid prayer is made by the petitioner on the plea that the respondents did not correctly assessed and evaluated the value of acquired property of the petitioner as had been done in the case of his neighbor's whose similar structures have had been acquired but came to be granted more compensation than the petitioner.
3. Respondents have contested the claim of the petitioner in their pleadings consisting of reply, as also, an affidavit filed in compliance to order passed by this Court and have stated therein that property of the petitioner acquired by respondents stands rightly assessed and 50% compensation stands paid to the petitioner whereas, rest 50% of compensation was not disbursed to the petitioner on account of his failure to produce requisite demolition certificate of the acquired property.

Heard counsel for the parties and perused the record.

4. Perusal of the record in general and in particular the affidavit filed by the respondent 5 in terms of order dated 12.07.2023 passed by this Court is extracted and reproduced herein :

- (a) The plinth area of the structure is correct, but as per the revenue records the land on which the structure had been constructed by the petitioner is Mehfooz Khacharai falling under Khasra No. 673, Copy of the relevant revenue excerpts are annexed as Annexure-3.
- (b) The specifications of the various components of the structure are same as has been recorded earlier.
- (c) The claim of Mill/shifting charges of machinery has been accounted in the assessment case and the assessment of the structure has been found correct as per the norms valuation. Copy of the communication No. 9914-17, dated 17.01.2019 forwarded to Collector Land Acquisition, PWD, Anantnag is enclosed with the Affidavit as Annexure-4

4 Regarding assessment of structures, it is to submit that all structures to be assessed, are governed by systematic procedure with proper VALUATION/ASSESSMENT SCHEDULE 2013 in vogue, furnished by the Chief Engineer R&B Kashmir with periodical revision rates (as per market escalation). Needless to mention brief parameters of assessment schedule which include: -

- (i) Plinth area of the structure.
- (ii) Detailed specifications of items is sued in construction work in: -
 - (a) Foundation/Plinth.
 - (b) Super structure.
 - (c) Joinery work.
 - (d) Ceiling/flooring
 - (e) Finishing
 - (f) Roofing & Miscellaneous items.

Accordingly, the item is categorized as class A/B/C/D etc and sanctioned rate is applied as per specified class of items used to arrive at the overall assessment cost of a structure.

- (iii) No of stories and
- (iv) Age of structure also being considered while assessment of a structure.

The plea of the petitioner that his structure may be assessed at same cost as his neighbor's structure on the basis that both structures are double storied is far from facts, because while assessing a structure besides the number of storey's criterion, the following requirements are considered too:-

- (i) Plinth area of structure: - The plinth area of structure of petitioner is 467 sqft. The structure had been constructed by the petitioner on state land falling under Khasra No. 673, while

as plinth area of structure of his neighbor is 2450 sqft which is about six times than the plinth area of the structure of the petitioner.

- (ii) Specifications of items of construction: - The specification of items involved in the structure of the petitioner fall mostly in mentioned by petitioner fall mostly in "B" and "C" category.
- (iii) The structure of petitioner has no sanitary point whereas the structure of his neighbor has 02 sanitary points.

5. In view of the aforesaid specific stand taken by the respondents, the respondents being experts in the file, seemingly have considered the claim of the petitioner viz-a-viz his neighbor and even enhanced the amount of compensation to Rs. 6,10,453 instead of Rs. 5,79,031/- as emerges from the record. Accordingly, for the foregoing reasons petition entails dismissal and is accordingly dismissed.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

18.12.2023

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