

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

LPA No. 233/2023
CM No. 7782/2023

Raj Kumari & Ors.

.....Applicant(s)/Petitioner(s)

Through :- Mr. Surinder Singh, Advocate

v/s

UT of J & K & Ors.

.....Respondent(s)

Through :- Ms. Saggira Jaffer, Assisting counsel to
Mrs. Monika Kohli, Sr. AAG

**CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
31.12.2024

CM 7782/2023

1. The appellants intend to challenge the order and judgment dated 11.10.2023 passed by the learned Single Judge of this Court [**“the Writ Court”**] in WP (C) No. 2596/2023 titled **Vipan Singh Wazir Vs. UT of J & K & Ors.** Since the appellants were not party before the Writ Court, therefore, an application seeking leave of this Court to file the appeal.
2. The leave is prayed for by the appellants primarily on the ground that with respect to the land subject matter of WP (C) No. 2596/2023, the appellants are also co-sharer and entitled to a share therein.
3. Learned counsel for the appellants submits that the Writ Court without ensuring that all co-sharers including the appellants herein are party to the writ petition has disposed of the petition by

directing the official respondents to either acquire the land in accordance with law and pay compensation to the person entitled to such compensation or in the alternative, vacate the land and deliver its possession to the rightful owner.

4. Mr. Singh further submits that the dispute with regard to title to the subject land is pending adjudication before the Civil Court and therefore, unless the entitlement of the petitioners in the writ petition as well as the appellants herein is determined, the land cannot be acquired.

5. **Having heard learned counsel for the parties and perused the material available on record,** we are of the considered opinion that the judgment passed by the Writ Court dated 11.10.2023 sought to be challenged by the appellants by way of the instant application is not prejudicial to the interest of anybody including the appellants herein. The Writ Court has, on finding that the subject land is under occupation of the CID, directed the official respondents either to acquire the said land in accordance with land acquisition law in force or in the alternative, vacate and deliver the possession to the rightful owner. It is therefore not correct to say that the Writ Court has passed any order in favour of the petitioners in WP (C) No. 2596/2023 or against the appellants before us.

6. The apprehension of the appellants that the Collector Land Acquisition may acquire the land and pay compensation to the petitioners in the WP (C) No. 2596/2023 to the exclusion of the appellants, for that, the vacant possession of the subject land may

be delivered to the said petitioners, is without any substance. Needless to say that the Writ Court has very categorically provided that the compensation for the subject land, if acquired, shall be paid to the person entitled thereto and to the extent of his interest. The Writ Court has further provided that if the official respondents intend to vacate the land and deliver its possession, the same shall be delivered to the rightful owners only. Who shall be the person rightfully entitled to compensation or to the possession of subject land is a subject matter to be determined by the official respondents/Collector Land Acquisition concerned. If the parties are already litigating before the Civil court, it is the decree of the Civil court that may determine the right of the parties to the subject matter.

7. For the foregoing reasons, **leave to file appeal is declined and the application is, accordingly dismissed.** As a consequence whereof, **the appeal is also dismissed** along with connected application(s), if any.

(Puneet Gupta)
Judge

(Sanjeev Kumar)
Judge

JAMMU
31.12.2024
Manan

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No