

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

Case: CPOWP No. 210/2017

Hem Raj and ors.

...Petitioner(s)/Appellant(s)

Through: Mr. Ashok Sharma, Advocate.

V/s

Shashi Kant Sharma, Secy. Defence and
ors.

.... Respondent(s)

Through: Mr. R S Jamwal, CGSC.
Ms. Monika Kohli, Sr. AAG.

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

ORDER
27.12.2024

01. A writ petition OWP No. 1030/2012 came to be instituted on 20.07.2012 before this Court by a set of six petitioners namely, Hem Raj, Vinod Kumar, Mukesh Dutta, Koushal Kumar Dutta, Madan alias Mahesh and Prab Dayal.

02. Of the said persons, three personal namely Vinod Kumar, Mukesh Dutta, Koushal Kumar Dutta were sons of Hem Raj whereas Madan alias Mahesh and Prab Dayal were sons of late Paras Ram and, as such, being real brothers.

03. In the said writ petition, the six petitioners came to name six respondents with Union of India through Secretary, Ministry of Defence, Government of India, New Delhi as respondent No.1, O.C. (Officer Commanding), 58 RCC GREF as respondent No.2, Commander 31 BRTF as respondent No.3, Chief Engineer, GREF as respondent No.4, Incharge, DE GREF, respondent No.5, Collector Land Acquisition, Assistant Commissioner, Defence, as respondent No.6.

04. In the writ petition, the six petitioners asked for the relief of directing the writ respondents from causing any interference in any manner in the peaceful possession, use and enjoyment of the petitioners' *qua* land bearing khasra No. 1699/3 measuring 90 kanals 09 marlas in village Dali (Methka) Tehsil Kalakote, district Rajouri and khasra No. 753 measuring 06 kanals 17 marlas situated at village Sair (Metkha) Tehsil Kalakote District Rajouri.

05. In the writ petition, the writ respondent Nos. 1 to 5 came forward with reply alleging that the writ petitioners have not come with clean hands and have misrepresented the facts.

06. In the reply, the writ respondent Nos. 1 to 5 came to submit that they are widening the existing road between Reasi-Pouni-Siar-Rajouri road as per the National Highway specifications as per the demarcation given by respondent authorities to the writ respondent Nos. 1 to 5 and, as such, from the side of writ respondent Nos. 1 to 5 there was no interference with respect to the land of the petitioners and whatsoever was being done at the end of writ respondent Nos. 1 to 5 in connection with widening of the road, the same was being done upon the land identified and demarcated for their work to take place and that whatsoever land was to be appropriated in the widening the same was to be on the payment of compensation to the land owners from whom the land was intended to be taken.

07. In terms of order dated 26.07.2012, the writ court had directed that the writ petitioners shall not be dispossessed from the land in their occupation except following the provisions of State Land Acquisition Act.

08. In terms of an order dated 30.01.2013 in response to the allegations made by the writ petitions that the writ respondents were raising construction on spot, the writ court in order to ascertain the actual position on the spot came to appoint

Munsiff Kalakote as Commissioner to visit the spot in presence of the parties and report about the existing position on spot.

09. It is pertinent to observe here that the writ petitioners were referring to the land of 90 kanals 09 marlas bearing khara no. 1699/3 in village Dali (Methka) Tehsil Kalakote, district Rajouri and khasra No. 753 measuring 06 kanals 17 marlas situated at village Sair (Metkha) Tehsil Kalakote District Rajouri but in the order dated 30.01.2013 it was not spelled out as to which portion of 90.09 kanals and 06.17 kanals the alleged construction was taking place to be inspected by the Commissioner-Munsiff Kalakote.

10. Perusal of the writ court record of OWP No. 1030/2012 would reveal that there is a one page Commissioner's report. It does not bear any factual reference as to whether there was any kind of construction taking place with respect to 90.09 kanals and 06.17 kanals of land forming subject matter of the writ petition, although a reference came to be made that there were men and machines on spot to remove the debris which had piled up on account of earth work coupled with the rains causing erosion of soil and for that purpose constructing a breast wall.

11. In the light of the Commissioner's report so submitted, the writ petition came to be disposed of on 24.10.2013 with a direction to the writ respondents in particular respondent No.6-Collector Land Acquisition that in the face of the grievance of the petitioners that writ respondent Nos. 1 to 5 have taken over the land without having recourse to J&K Land Acquisition Act, let the respondent No.6- Collector Land Acquisition proceed in the matter strictly in accordance with J&K Land Acquisition Act for which writ respondent Nos. 1 to 5 were to forward an indent.

12. It is this order dated 24.10.2013 which later came to become subject matter of the present contempt petition and the situation is being led to nowhere except

of piling of papers in the form of status reports followed by objections from the petitioners' end. In the array of the respondents in the present contempt petition, it is 22 respondents.

13. This Court is cautiously staying away from making any observation lest it causes any prejudice to the cause of the petitioners in the present contempt petition and, therefore, with all the facts and circumstances obtaining as on date on the record of this contempt petition, this Court closes the present contempt proceedings without any prejudice to the right of the writ petitioners to come up with an better writ petition in case they have grievance that out of land measuring 90 kanals 09 marlas bearing khara no. 1699/3 in village Dali (Methka) Tehsil Kalakote, district Rajouri and khasra No. 753 measuring 06 kanals 17 marlas situated at village Sair (Metkha) Tehsil Kalakote District Rajouri if any portion of the land has come under acquisition in connection with widening of the road at ends of the writ respondents then the petitioners shall be will within their right to come forward with fresh writ petition for seeking requisite relief as the facts and circumstances of the case may afford them to ask for.

14. Disposal of this contempt petition in no manner shall not be read against the petitioners' cause.

15. The contempt petition is accordingly closed.

(RAHUL BHARTI)
JUDGE

Jammu
27.12.2024
Sunita/PS