

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No.135/2012

Reserved on: 05.12.2025

Pronounced on: 11.12.2025

Uploaded on : 11.12.2025

Manzoor Hussain Sheikh S/o Abdul Hamid Sheikh,
Aged 54 years R/o F-301, Wazarat Road, Jammu.

...Petitioner(s)

Through:-Mr. R. Koul, Advocate

V/s

1. State of Jammu and Kashmir through Chief Secretary, Civil Secretariat, Jammu
2. Executive Engineer, Tawi Bridge-cum-Medical College Division, Jammu
3. Collector, Land Acquisition (PWD), Jammu.

...Respondent(s)

Through:- Mr. Ravinder Gupta, AAG

Coram: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT

1. By way of this writ petition, the petitioner has invoked extraordinary writ jurisdiction of this Court vested under Article 226 of the Constitution of India, to direct the respondents to pay adequate compensation to the petitioner for acquisition of land as well as compensation for structure with further relief of allotment of suitable shop in Rehabilitation Complex, B.C.Road, Jammu. The petitioner has also prayed for a direction upon the respondents to pay interest to the petition on the delayed compensation payable to the petitioner.

FACTUAL MATRIX

2. The petitioner being in possession of land at khasra No.273, 274 B.C. Road, Jammu since 1971, had constructed his residential house as well as commercial unit of Karyana/cloth merchant on the said land. Due to road widening and construction of fly-over, the structure of the petitioner came to be demolished by the respondents on the assurance of providing suitable site for rehabilitation and compensation. In this regard, the petitioner was asked to submit his application along with requisite amount of Rs.20,000/-. Ultimately, vide No.5456-59 dated 24th March, 2005, respondent No.2 issued an allotment order in favour of the petitioner, thereby allotting shop No.B-46 floor having approximate plinth area of 37.80 sq mtr. The petitioner, it is contended, objected to the allotment of aforesaid shop on the ground that since the said shop is located at basement, it is not appropriate for the kind of business the petitioner is engaged in. Inaction of the respondents, constrained the petitioner to serve a legal notice dated 27th May, 2011, calling upon the respondents, to pay suitable compensation for the land and also for allotment of suitable shop. Upon receipt of the legal notice, respondent No.3 sought a report from respondent No.2, however, nothing has been done by the respondents, which compelled the petitioner to approach this Court by way of instant petition.
3. *Per contra*, relief claimed by the petitioner has been opposed by filing objections. In the objections, it is stated that the writ petition suffers from delay and laches, because the structure in question was dismantled in the year 1995 and the writ petition has been filed in the year 2012 i.e.

after about seventeen years without any justifiable explanation. It is stated that the land over which the petitioner was running his business, was a state land measuring 389 sft comprising at khasra No.274 min. The stand of the respondents is that a letter of allotment was issued to the petitioner on 24.03.2005, by the then Executive Engineer PWD(R&B) Tawi Bridge Cum Medical College Division, Jammu for which the petitioner has deposited only Rs.20,000/- till date, whereas he was required to deposit further amount of Rs.55,600/- within one month from the date of issuance of allotment letter and Rs.75,600/- within one month from the allotment. However, the petitioner did not deposit the balance amount and as per the Clause (3) of the Allotment Letter dated 24.03.2005, in case of delay in payment, interest @ 18% per annum shall be chargeable. The terms and conditions of allotment read thus:-

“1. The shop shall be allotted on lease hold basis for a period of Forty years w.e.f. the date of handing over possession and the lessee shall be bound to pay Rs. Thirty only (Rs.30) per month/ per sq. mtrs of plinth area allotted for maintenance of the same. Thereafter the proprietary rights shall be conferred upon the allottee.

2. As already advised the approximate cost of the shop for purpose of allotment shall be as under:-

A) Cost of shop 1,51,200.00 Sm @ Rs.4000/- per Sqr. M.

B) Money deposited Rs.20,000.00 in the shape of CDR

C) Balance amount payable Rs. 1,31,200.00 to be recovered in two installments.

i) Rs.55,600/- within one month from the date of issue of this allotment letter and

ii) Rs.75600/- within one month from the date of issue of allotment.

3. In case of delay in payment, interest @ Eighteen percent (18%) shall be charged.

4. Shutters shall be provided by the allottee on his/her own cost as per requirement without damaging/otherwise effecting the structure in any way.

5. Possession of the shop shall be handed over only after the existing or temporary structure by the allottee, if any, is dismantled and vacant possession of the area involved is handed over to the department for project works.”

4. It is stated that for the purpose of allotment of shops, an allotment committee was constituted by the Chief Engineer PW(R&B) Department on 20.05.1996 and it was not the discretion of any single person to allot a shop as per choice of the applicant.
5. Learned counsel for the petitioner would argue that the petitioner while submitting his willingness for allotment of shop in lieu of his structure taken over for road widening and construction of fly-over, had given preference for allotment of a shop on front side, however, he has been allotted a shop in the basement, which is not conducive for the kind of business, the petitioner intends to do in the shop. He further argues that petitioner has not been paid any compensation for the land/structure owned and possessed by him.
6. On the contrary, learned counsel for the respondents argues that the petitioner has no vested legal right to seek allotment of a shop of his choice and that for the purpose of allotment of shops in rehabilitation Complex, B.C. Road, an Allotment Committee was constituted, which allotted the shops as per the criteria laid for the purpose by the said Committee. He would further argue that since the petitioner has not deposited the cost of the shop allotted to him, as per the conditions laid down in the allotment letter, further process including possession of the shop could not be handed over to the petitioner.

7. Heard learned counsel for the parties and perused the material available on record.
8. It appears that the petitioner was in occupation of the State/Nazool land, where he was running his business. The structure raised by the petitioner on the state land came under the alignment of road widening and construction of fly-over, as such the same was demolished and the petitioner was assured allotment of a shop in Rehabilitation Complex, Opposite PHE Complex, B.C. Road, Jammu. Consequently, petitioner was offered allotment of a shop being shop No.B-46 having floor area of 37.80 sq mtr on the terms and conditions quoted above.
8. Perusal of the conditions of allotment would show that the petitioner was required to deposit the balance amount of Rs.1,31,200/- in two installments, which he did not. Clause 3 of the Allotment of allotment specifically mentions that in case of delay in payment of premium, interest @ 18% was to be charged.
9. In the instant case, the petitioner was offered a shop in Trikota Complex, B.C.Road, Jammu based on the recommendation of the Committee constituted for the purpose on the basis of criteria framed for such allotments, however, the petitioner failed to deposit the amount of premium fixed for the shop, as per the schedule provided in the letter of allotment and abandoned the shop/premises allotted to him. In the status report dated 30th November, 2023 filed by the respondents in terms of

order dated 26.05.2023, indicates that out of 56 number of shops, one space of shop is available on the first floor of the complex and on 2nd floor, four shops are lying vacant. It is stated that the petitioner neither paid the outstanding amount of Rs.1,31,200/- nor maintained the allotted shop, which has been lying abandoned. As per the respondents, total outstanding amount, including interest @ 18%, comes to the tune of approximately more than Rs.25.00 lacs, which is required to be deposited by the petitioner to be considered for allotment of alternate shop/space on 1st floor or second floor of the Trikuta Complex. Relevant extract of the status report is reproduced hereunder:-

“Since the petitioner Manzoor Ahmed has deposited cheque of Rs.20,000/- in advance to the issuance of allotment and thereafter till date petitioner neither paid the outstanding cost of Rs.1,31,200/- of the shop and nor maintained the allotted shop which is lying abandoned in the rehabilitation complex. As such, total outstanding/pending payment of the cost of shop on charging @ 18% interest on the principle amount of Rs.1,31,000/- comes to the tune of approximately more than Rs.25 lacs which is required to be deposited by the petitioner Manzoor Ahmed to consider for alternate choice of available shop for allotment on 1st floor 01 number of shop/space and on 2nd floor 04 number of space. Further the details regarding nature of business owned by the allottees as mentioned above against the each shp has been duly authenticated by the Assistant Executive Engineer PWD (R&B) Sub Division, Jammu East and the allotment of shops/space on ground floor and on 1st floor.”

10. Perusal of the status report shows that the respondents are ready to consider allotment of alternative space/shop to the petitioner, in case petitioner deposits the balance cost of the shop/space allotted to him along with interest as prescribed in the allotment letter.
11. In view of the above, this writ petition is disposed of by providing, that if the petitioner is still interested to get the shop, allotted in his favour, he shall deposit the balance cost of the shop along with interest @ 18%, within a period of two months from today. Upon receipt of the balance amount along with interest, the respondent shall consider allotment of alternate shop/space, if still available for allotment, and handover its possession to the petitioner.

Jammu.
11.12.2025
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