

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

Case:- WP(C) No. 932/2025

Karnail Singh age 60
S/o Late Shri Nand Lal
R/o Lower Bali, Tehsil and District Udhampur

.....Petitioner(s)

Through: Mr. Ajay Kumar, Advocate.

Vs

1. **Union of India through Secretary Ministry of Road Transport and Highways, Govt. of India, New Delhi** Respondent(s)
2. **Chairman, National Highways Authority of India, New Delhi.**
3. **Project Director, National Highways Authority of India, House No.315, Sector 1, Channi Himmat, Jammu.**
4. **Deputy Commissioner Udhampur.**
5. **Addl. Deputy Commissioner (Collector Land Acquisition) Udhampur**
6. **Tehsildar Udhampur.**
7. **Project Director, Gammon India Ltd. Udhampur Ramban Road Project, Udhampur.**

Through:

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
(21.04.2025)

1. The petitioner, aggrieved of the order bearing No.NHAI/PIU/Ramban/2019/11001 dated 10.01.2020 passed by the respondent No.2 in terms of which the claim of the petitioner over his land measuring 26K-19M comprised new Khasra No.1004 situated in village Lower Bali, Teshsil and District Udhampur, which land is used by respondent No.7 for muck dumping has been rejected, has filed the instant writ petition under Article 226 of Constitution of India.
2. It is submitted that the dispute pertains to a piece of land measuring 132

kanals 18 marlas comprising khasra No.39 min/ 39, khata No.433/426 and khasra No.961 situated in village Bali tehsil and District Udhampur. The further case of the petitioner is that the said land is jointly owned by Prem Singh s/o Nihal Singh, Raj Singh s/o Tegu, and Mukhtiar Singh, Sansar Singh, Naseeb Singh and Punjab Singh all sons of Roopa all in equal shares. Additionally 50% of the land is jointly held by Karu and Amar Singh as per revenue records of the year 1971-72. It is further submitted that Karu's daughter Banti, was married to Nand Lal and continued to reside in her parental home. From this wedlock the petitioner namely Karnail Singh, Balwan Singh, Bimla Devi, Rani Devi and Leelo Devi were born. During the 2011 settlement proceedings in village Bali teshil and District Udhampur the land bearing khasra No.961 was bifurcated in many numbers.

3. The learned counsel further submits that the respondent No.3 vide letter No. PD/JMU/PKG-IV/U-R/J&K/15-16/Vol-4/675 dated 06.04.2016 placed an indent before the respondent No.4 for providing suitable land to respondent No.7 for acquiring the land for dumping of muck at various locations. That the respondent No.5 issued an order vide his No.LA/ADC/264-70 dated 20.05.2016 in terms of which allotment of waste disposal dumping area for four laning from Udhampur to Ramban section of NH-1A (new NH 44) was made.
4. It is further submitted that on 2.09.2016 for the purpose of acquiring the land of the petitioner measuring 26K-19M comprising khasra No.1004 situated at Lower Bali tehsil and District Udhampur, the respondent No.5 issued a notification under sub section 1 of section 4 of the land acquisition Act 1990.

5. The learned counsel for the petitioner further argues that without acquiring the land of the petitioner and without compensating for the same, the respondent No.7 utilized the land of the petitioner measuring 26K-19M comprising khasra No.1004 at village Lower Bali which caused extensive damage to the land of the petitioner compelling the petitioner to make representation before respondent 4 and 7 projecting his grievance with regard to the damages suffered by him due to the illegal dumping over the land.
6. Thereafter the petitioner alongwith his brother Balwan Singh filed a writ petition bearing No.OWP No.922/2018 titled as Karnail Singh and anr. v/s Deputy Commissioner and others, claiming the relief for the damages caused to the land of the petitioner and according to him the damages was assessed by the petitioner to be more than Rs.20.00 lacs and payment of compensation was claimed with the interest of 9%. The said petition was disposed of with the liberty to the petitioner to make representation before respondent No.3 who was directed to decide the said representation within a period of two months.
7. Accordingly, the petitioner made representation before the respondent No.3 which was not decided within the specified time period and feeling aggrieved of the same, the petitioner filed contempt petition bearing No. 91/2019 before this court which came to be closed on 11.08.2023 with a liberty to the petitioner to avail legal remedy as available to him for challenging the order impugned.
8. The respondent No.3 after receiving the notice in the contempt petition passed the impugned order dated 10.01.2020, wherein the respondent No.3 has taken a specific stand that the petitioner has never raised any

objection with district administration as well as with Nation Highway Authority with respect to the dumping of the muck on the said land.

9. Heard learned counsel for the petitioner and perused the record.
10. Since the present petition raises disputed question of facts to the extent of ownership of land in question and the instant petition to that extent is not maintainable and the relief prayed for by the petitioner in the present petition, cannot be acceded to.
11. Even the present writ petition is barred by limitation as the petitioner through the medium of the instant petition, has called in question the order impugned dated 10.01.2020 issued by National Highways Authority of India after a gape of more than five years and the delay in approaching this court has not been explained.
12. After having accepted the order impugned dated 10.01.2020 for more than five years without any demur by virtue of which M/S Gammon India Limited has legally entered into an understanding with the rightful owner (Shri Balwan Singh) of the land used for muck dumping, whereby, it has been held that Balwan Singh is the owner of the land in question, the petitioner is estopped under law to question the said order at this belated stage.
13. The law of estoppel by conduct hold good against the petitioner. Even otherwise also, the record reveals that during the dumping of muck, the petitioner has never raised any objection with the District administration or National Highways Authority of India, which has issued the order impugned and after having waived of his right to challenge the aforesaid order, the petitioner is estopped under law to question the validity of the aforesaid order at this belated stage.

14. Moreso, this court while exercising writ jurisdiction, cannot go into the question of deciding the issue of ownership of the land in question, more particularly, when it has been recorded in the order impugned that dumping has been done by M/S Gammon India Limited in the year 2016-2017 and the petitioner on the other hand, has filed the petition in the earlier round of litigation before this court in the year 2018. The land in question has been taken for use of muck dumping by M/S Gammon India Limited on the request of actual land owner Shri Balwan Singh and since M/S Gammon India Limited has legally entered into an understanding with the rightful owner Shri Balwan Singh of the said land used for muck dumping, the claim of the petitioner (Karnail Singh) was not justified and rightly rejected. Thus, this Court do not find any legal infirmity with the order dated 10.01.2020 issued by the Project Director of National Highways Authority of India which is impugned in the present petition.
15. Thus in the light of the discussion made hereinabove, the challenge thrown by the petitioner to the order impugned, is ill-founded and the writ petition, which is devoid of any merit, is not maintainable and liable to be dismissed in limine and the same is accordingly dismissed.
16. The writ petition, as such, is dismissed in limine alongwith all connected applications.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
21.04.2025
Gh. Nabi/Secy

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