

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

WP(C) No. 1130/2025
CM(C) No. 2657/2025

Mushtaq Khan and Anr.

.....Appellant(s)

Through: Mr. K.M. Bhatti, Advocate

Vs

UT of J&K and Ors.

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER
06.05.2025

1. Mrs. Monika Kohli, learned Sr. AAG appears and accepts notice on behalf of the respondents.
2. Heard.
3. In the facts and circumstances of the case, this Court is of the considered opinion that the instant writ petition having been filed under the provisions of Article 226 of the Constitution of India can be disposed of at this threshold stage by passing of orders for taking of such appropriate action, which the respondents otherwise are obliged under the law to take in the case.
4. The case of the petitioners in nutshell is that they are the owners in possession of land measuring 4 and 10.5 Marlas comprised under survey Nos. 1044/1227min of village Baffliaz Tehsil Surankote District Poonch, whereupon they constructed their shops and established their business during the peak militancy period in order to earn their livelihood; that the respondents are going

to dismantle the said shops of the petitioners in connection with the widening of the existing Surankote Buffliaz Draba Bye-pass GREF road; that they are going to invoke the provisions of the erstwhile & repealed State Acquisition Act and thereby to oust them from their property against a meager compensation amount; that the respondents have issued some papers which depicts the enlistment of the aforesaid property of the petitioners; that the respondents in case of any urgency regarding acquisition of the aforesaid property of the petitioners were under an obligation to initiate the formal process of acquisition in terms of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 which has not been done; that the compensation in respect of the subject property is to be paid in accordance with the Act of 2013 and not as per the repealed State Act of Svt. 1990 as the notification dated 30.09.2019 already issued under Section 4(1) of the said Act is deemed to have lapsed; that similar notifications already issued under different cases by invoking the provisions of the erstwhile State Act have been quashed by this Court in WP(C) No. 2247/2021.

5. The petitioners have accordingly prayed for issuance of directions/writs in the nature of Certiorari, Prohibition and Mandamus for quashment of Notification bearing No.Coll/Def/2019-20/772-76 dated 30.09.2019 to the extent of their property, prohibiting the respondents from acquiring the property of the petitioners without adopting the due course of law as provided under the Right

to Fair Compensation Act of 2013 and the payment of due compensation to them and to allow them to use and enjoy their property, till payment of the same strictly as per the Act of 2013.

6. Perused the main petition and the copies of the documents enclosed with the same as annexure thereto.

7. The matter is ***disposed of*** at this threshold stage with the direction to the respondents that they shall actively consider the initiation of the process for acquisition of the subject land of the petitioners strictly in accordance with the law applicable in the case i.e. Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013, having regard to the assertion of the petitioners that the notice under Section 4(1) of the erstwhile repealed State Land Acquisition Act Svt. 1990 dated 30.09.2019 did not culminate into a preliminary or final award before the enforcement of the Act of 2013 thereby rendering the same lapsed under law, if not already initiated and submit status report to the Registry of the Court within a period of two weeks.

8. ***Disposed of.***

(Mohd. Yousuf Wani)
Judge

Jammu
06.05.2025
Nikhil