

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP (C) 1445/25
CM No. 3407/2025

Bashir Ahmed

...Petitioner(s)

Mr. Mehtab Gulzar, adv.

Through:

vs.

**1.UT of J&K, through Principal Secretary to Govt.
(Home) Department Civil Sectt. Jammu and ors ,**

...Respondents.

Through: Ms. Pallvi Gupta, Advocate vice
Mr. Ravinder Gupta, AAG

CORAM:**Hon'ble Mr. Justice Mohd. Yousuf Wani, Judge.**

Heard.

The case of the petitioner in nutshell is that he is absolute owner in possession of land measuring 15 Kanals falling under Khasra No. 231/min situated at Village, Hubbi Tehsil Kotranka, District Rajouri, on which the respondents have started the construction of a School namely Eklavya Model Residential School (EMRS) Kortranka, without adopting due process of law. That the respondents have been threatening the petitioner of his dispossession from the subject land. That the respondents have not initiated any process for acquisition of the said land under law and have instead illegally started construction of a Residential School on his land. That the action of the respondents is in utter violation of the provisions of Article 300-A of the Constitution and *Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013* (hereinafter referred to as the Act of 2013 for short). That he is likely to suffer an irreparable loss in case the respondents will succeed in their illegal design to forcibly take possession of his

land for the construction of aforesaid School without acquiring the same strictly in accordance with the provisions of the law as contained under the Act of 2013.

In the facts and circumstances of the case, this court is of the considered opinion that the matter can be taken up at this threshold stage for passing of appropriate directions which otherwise are meant to be obeyed by the respondents as per the law.

The petitioner has enclosed a copy of the revenue extract with the instant petition, which reveals that the land measuring 15 kanals falling under khasra No. 231/min is recorded in the name of the petitioner as owner and possessor thereof. No person can be deprived of his property in connection with the requirement of the same for any public purpose except strictly in accordance with the law regulating the process of acquisition and the payment of due compensation.

Compulsory acquisition of the property belonging to a private individual is a serious matter having grave repercussions on his constitutional right of not being deprived of his property without the sanction of law-Article 300-A and legal rights. The State must exercise this power with great care and circumspection.

Though, right to property is no longer a fundamental right but the constitutional protection continues inasmuch as without the authority of law, a person cannot be deprived of his property.

Deprivation of property can only be permitted when and to the extent it is strictly in compliance with applicable law.

Right to property is a constitutional right guaranteed under Article 300-A of the Constitution of India. Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013, lays down the procedure for acquisition of property and the assessment of compensation thereof, besides laying down the law in respect of the ancillary and connected matters involved in the process.

As such, the instant petition is taken up for final disposal and is accordingly disposed of with the direction to the respondents that they shall not interfere with the subject land except in accordance with the provisions of the Act of 2013.

Disposed of.

(MOHD. YOUSUF WANI)
JUDGE

Jammu:

04.06.2025

"Ayazi"

