

Regular List
Serial No. 18

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

WP(C) No. 1736/2023

Date of pronouncement : 24.12.2025
Uploaded on : 05.01.2026

Lt. Col. Yesh Paul Sharma (Retd.) Petitioner

Through:- Petitioner present in person

V/s

Union of India & Ors. Respondents

Through:- Mrs. Monika Kohli, Sr. AAG with
Ms. Nazia Fazal, Assisting Counsel
Mr. Vishal Sharma, DSGI with
Mr. Sumant Sudan, Advocate.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)

- 01.** Pursuant to the direction given by this Court in its detailed order dated **14.11.2025**, Mr. Israr Ahmed-Collector Land Acquisition, Defence, Rajouri-Poonch Headquarter at Rajouri, is present in person along with the record related to the acquisition in reference.
- 02.** The Collector Land Acquisition, Defence, Rajouri-Poonch (Rajouri) by reference to the apportionment statement of the land refers to the fact that the land comprised in **khasra No. 1656-(measuring 17.19**

kanals), 1670-(measuring 26.04 kanals) and 1658-(measuring 19.17 kanals) coming under acquisition was 64 kanals.

- 03.** Out of this 64 kanals of acquired land, the petitioner No. 1- Badri Nath now deceased, along with his two brothers namely, Tej Ram and Paras Ram are said to be the owners of one and a half-(**1½**) share i.e. 32 kanals and amongst themselves one-third (**1/3rd**) share each that is 10.13 kanals, came in their share.
- 04.** As per the apportionment statement, the compensation for the individual share of Tej Ram was received by his son Subash Chander and Som Dutt for an amount of **Rs. 15,70,133/-**. The payment is said to have been made vide cheque dated **20.02.2008**, though the entry does not reflect the cheque number. Likewise, the share amount of compensation was paid to Paras Ram through **cheque No. 731667** dated **03.02.2008**.
- 05.** The aforesaid payment of shares of compensation amount of Paras Ram and Tej Ram were received in acknowledgement by Paras Ram, Subash Chander and Som Dutt by subscribing their respective signatures in the column of '**Payee Signatures**' in the Apportionment Statement.

06. Payment of **Rs. 15,70,133/-** to Badri Nath-petitioner No. 1 is said to have been advanced by **cheque No. 731666** dated **03.02.2008** by having the signature of the petitioner No. 1-Badri Nath in the column of '**Payee Signatures**'. There is no reference of the receipt of compensation by the petitioner No. 1-Badri Nath being under Protest.
07. The aforesaid payments to the petitioner No. 1-Badri Nath, Tej Ram and Paras Ram was of 80 per cent amount of compensation assessed for 32 kanals of land as per their share-wise entitlement.
08. For the remainder 20% compensation share, the same came to take place in favour of Subash Chander and Som Dutt, two sons of Tej Ram on **01.08.2013** by debit of Rs. **1,96,266/-** each from revenue deposit **account No. 8443** to the respective account numbers of said two persons maintained in the J&K Bank, Rajouri.
09. Bank account of Mr. Subash Chander is **12881** whereas of Mr. Som Dutt is **12882**.
10. The payment of remainder of 20% compensation of **Rs. 3,92,533/-** came to take place in favour of Paras Ram by amount transferred to his bank **account No. 10792**.

11. With respect to the aforesaid payment of 20 per cent compensation, Subash Chander and Som Dutt as well as Paras Ram have duly appended their signatures in the '**Payee Signature**' column of the Apportionment Statement.
12. The petitioner No. 1-Badri Nath did not volunteer himself to approach the Collector Land Acquisition concerned for seeking release of his 20% remainder compensation amount of **Rs. 3,92,533/-**, as such, the same remained lying with the Collector Land Acquisition and the said situation is obtaining as on date.
13. About the manner of filing of the writ petition, this Court, in its order dated **02.07.2025**, has already adverted to the aforesaid aspect.
14. This Court, in its order dated **14.11.2025**, has expressly observed in para-12 that the petitioner No. 2-Lt. Col. Yesh Paul Sharma-(retd.) intends to put the clock back.
15. The filing of the writ petition, though in the name of petitioner No. 1-Badri Nath was, in fact, by the petitioner No. 2-Lt. Col. Yesh Paul Sharma (Retd.) as the petitioner No. 1-Badri Nath at no point of time ever came forward with any affidavit in support of the writ petition so much so the drafting of the writ

petition as well as its institution had taken place without any counsel being engaged on behalf of the two petitioners and therefore, there is no vakaltnama signed by petitioner No. 1-Badri Nath in favour of a counsel presenting the writ petition and, as such, this Court cannot countenance the fact that the institution of the writ petition actually took place for and on behalf of the petitioner No. 1-Badri Nath who even did not sign the writ petition.

16. In fact, in the eyes of law, the institution of the writ petition by the petitioner No. 2 is in his name and reference, though without having any locus in the matter during the lifetime of his father i.e. petitioner No. 1-Badri Nath.

17. The petitioner No. 1-Badri Nath had demised on 25.12.2022 which was well before the institution of the writ petition and therefore, the very mention of a dead person as petitioner No. 1 by the petitioner No. 2 was an act which, in the eyes of law, would amount to an act of culpability but given the fact that the petitioner No. 2 is acting on flight of his own layman imagination, as such, this Court is sparing the petitioner No. 2 from the serious act of omission or commission on his part for which the petitioner No. 1-Badri Nath could not have been held accountable.

18. The very fact that the so-called petitioner No. 1-Badri Nath during his lifetime at the time of receiving 80% of compensation did not register any protest in any manner on any aspect relatable to the acquisition of his share of land, as such, the petitioner No. 2 as his son cannot and could not have been heard to have any say much less any objection in the matter.
19. The only scope left for the petitioner No. 2 to agitate any grievance in the matter is and can be upon withdrawal of 20% of the compensation amount so lying with the Collector Land Acquisition, Defence, Rajouri-Poonch (Rajouri) that too only upon procurement of a succession certificate from the competent court in view of the fact that the petitioner No. 1-Badri Nath expired leaving behind not only the petitioner No. 2 but also two sons, namely, **Ramesh Chander Sharma and Chaman Lal Sharma and four daughters, namely, Vaishno Devi, Sunita Devi, Anita Kumari and Saroj Bala**, which fact is coming forth from **CM No. 5862/2023** preferred by the petitioner No. 2 through which the petitioner No. 2 had solicited the impleadment of the legal representatives above named but later on abandoning the said application in order to pursue the writ petition in his own name and by his own status.

20. In the light of the aforesaid record position and also of facts and circumstances, this Court is fully convinced that the institution of the writ petition from very inception was misconceived from the end of the petitioner No. 2 having no locus whatsoever to agitate any aspect relatable to the acquisition of the land comprised in khasra Nos. 1656, 1670 and 1658 in which his father Badri Nath being one of the three share holders was competent in himself to have come up with any legal proceedings vis-à-vis the land acquisition process but the same was not done from his end. In fact, even the two brothers of the petitioner No. 1-Badri Nath reconciled the manner in which the acquisition of the land and assessment and payment of compensation had taken place thereupon.

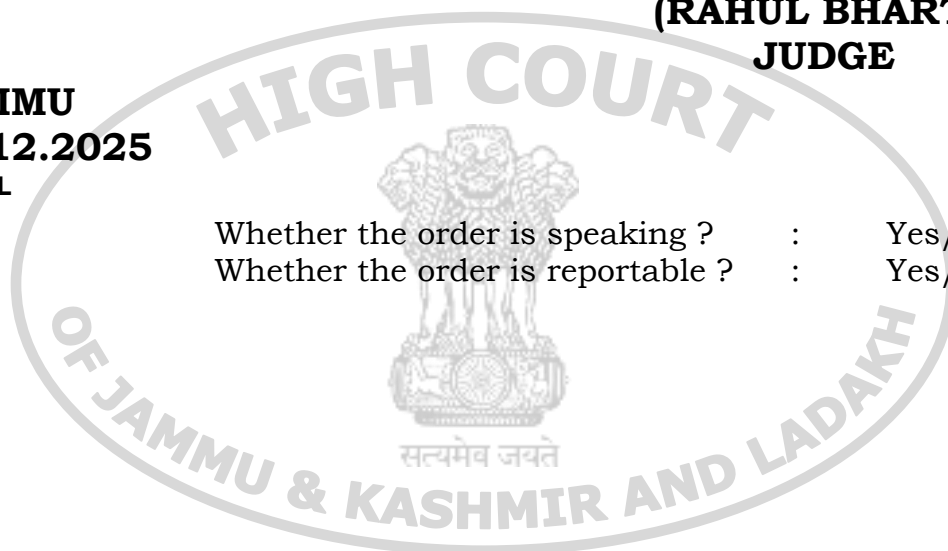
21. Had there been any element of fraud involved in the matter of acquisition of the land particularly relatable to the aforesaid three khasra numbers, then surely Paras Ram and Tej Ram-brothers of Badri Nath would not have kept themselves back in agitating their grievance through proper legal course of action.

22. The only end left for the petitioner No. 2 along with co-legal heirs is that upon receipt of 20% of the compensation is scope for seeking a reference under the **J&K Land Acquisition Act, Svt. 1990** if available

that too subject to the fullness of facts and circumstances of the case whereupon the grievance if any, relatable to the acquisition/compensation in terms of assessment and apportionment, can be agitated. Only through said mode and not through the mode of present writ petition as is the intent and purpose of the present writ petition, which is, accordingly, **dismissed**.

(RAHUL BHARTI)
JUDGE

JAMMU
24.12.2025
SUNIL



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