

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

WP(C) No. 1788/2020

c/w

WP(C) No. 950/2021

WP(C) No. 2122/2021

Om Parkash

.....Appellants

Through: Mr. Gagan Basotra, Sr. Advocate with
Mr. M. Nadeem Bhat, Advocate

Vs

UT of J&K and ors.

..... Respondents

Through: Ms. Chetna Manhas, Advocate vice
Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

29.09.2025

1. By this common judgment, the afore-titled three writ petitions involving the similar issues are proposed to be disposed of.
2. WP(C) No. 1788/2020 has been filed by petitioner-Om Parkash who claims that his land measuring 47 kanals 15 marlas falling in khasra Nos. 254, 156, 134, 3, 248, 133, 1, 115, 135 & 100 situated at village Sangaldan Tehsil Gool District Ramban has been acquired by the respondents for construction of dumping yard in village Sangaldan vide final award dated 31.07.2015 passed by Collector, Land Acquisition (SDM Gool). It has been submitted that as per the apportionment statement annexed with the aforesaid award, compensation in the amount of Rs. 43, 37, 075/- has been assessed in respect of land in question in favour of the petitioner. It is case of the petitioner that the land in question has been in possession of the petitioner and his ancestors since 1940 and in

this regard, the petitioner has annexed the copies of khasra girdawari in the years, 1940 and 2009-10. The petitioner claims that the compensation assessed by the Collector is not being released in his favour.

3. WP(C) No. 2122/2021 has been filed by Mohd. Ashraf Khan and 07 more petitioners in which they have claimed that they were in possession of land measuring 03 kanals 12 marlas falling in khasra No. 133/56 situated at village Movelkote Tehsil Gool District Ramban which has been acquired in terms of award dated 11.08.2011 issued by respondent-Collector, Land Acquisition/ADC Ramban for the purpose of construction of Kanthan-Sangaldan Bye-Pass Road. It has been claimed that the petitioners and their ancestors were in possession of land in question since 1940 which is substantiated by the revenue record. According to the petitioners, the compensation assessed by the Collector in terms of award dated 11.08.2011 amounting to Rs. 2, 07, 000/- is not being disbursed in their favour.

4. WP(C) No. 950/2021 has been filed by petitioner-Jameet Singh who claims to be in possession of land measuring 24 kanals 03 marlas falling in khasra No. 2171, 123/3 of village Sangaldan Tehsil Gool District Ramban since the year, 1940. The petitioner has placed on record copies of khasra girdawari for the years, 1940 and 1970-2016. According to the petitioner, the land in question has been acquired by the respondent-Collector for the purpose of construction of dumping yard Bani in village Sangaldan in terms of

award dated 31.07.2015 and compensation in the amount of Rs. 18,00,900/- has been assessed in favour of the petitioner which is not being released in his favour.

5. In all the aforesaid writ petitions, the respondents have taken a stand that the acquired land is a State land though the same was in possession of the writ petitioners. It has been contended that proprietary rights in respect of the acquired land in favour of the petitioners were never conferred upon them and as such, they are not entitled to any compensation. It has been submitted that the writ petitioners are neither allottees nor owners of the land which belongs to the State and that their status is of unauthorized occupants. On these grounds, it has been submitted that the petitioners are not entitled to any compensation from the respondents.

6. I have heard learned counsel for the parties and perused the record of case.

7. As already stated, the contention of the respondents in all these writ petitions is that the writ petitioners are illegal occupants of the State land as such, they are not entitled to any compensation. It is not in dispute that the respondent-Collector, while making the awards in respect of the acquired land of the petitioners, has assessed the compensation in their favour and names of the petitioners figure in the apportionment statement annexed to the awards. The question that arises for determination is as to whether

the petitioners are entitled to compensation as per the two awards which are subject matter of these three writ petitions.

8. A perusal of the apportionment statements annexed to the two awards clearly reveals that the writ petitioners, though not owners of the land, yet they have been recognized as tenants/occupants of the State land. Thus, by virtue of their possession, the writ petitioners have become persons interested and it is for this reason that compensation has been computed and assessed by the Collector in their favour otherwise, there was no need to assess compensation for the State land which could have been taken over by the respondent-State without resorting to any acquisition proceedings.

9. The question whether a person who is in occupation of State land and whose name figures in the apportionment statement annexed to the award is entitled to compensation has come up for determination before a Division Bench of this Court in a case titled **Krishana Vs. State of J&K and ors; [OWP No. 1101/2016]** decided on 16.02.2021. While answering this question, the Division Bench of this Court has observed as under:-

“14. In order to determine the entitlement of the petitioner to receive compensation in respect of the aforesaid land, it has to be seen whether the petitioner is a ‘person interested’ for receiving compensation on the basis of existing rights in the land which were acquired. The award clearly mentions that the compensation is payable to the owners/interested persons.

15. Section 3 (b) of the State Land Acquisition Act, SVT, 1990 which is *pari material* with Section 3 (b) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act' provides that the expression 'person interested' includes all persons, claiming interest in compensation on account of acquisition of land and the persons shall be deemed to be interested if he has an easement affecting the case.

16. A 'persons interested' or a 'person aggrieved' is a person who is injured or who is adversely affected in a legal sense. If he is able to establish that he had any interest of his own in the land in any manner, he would be a 'person interested'.

17. The expression "person interested" came to be considered by a Single Judge of this Court in the Case of Ghulam Rasool Bhat v. State of J&K & Others, 2004(1) JKH 416 and it was held that it would mean a person entitle to receive compensation on the basis of the existing right in the land which is being acquired.

18. In another case of Administrator, Auqaf Committee v. Balwant Singh & Others, 2014 (1) JKJ 401, a Division Bench of this Court held that persons in cultivating possession of the land for more than fifty years are entitled to compensation to the extent of 80% and the remaining is payable to the actual owner. In other words, the rights of the persons in possession other than the owner of the land were recognised as a person interested to claim compensation.

19. The Supreme Court, way back in the year 1980, in case of Himalayan Tiles and Marbles Private Limited v. Francis Victor Coutinho, AIR 1980 SC 1118, laid down that the expression 'person interested' appearing in Section 3 (b) of the Act embraces all persons directly or indirectly interested in the title of the land or quantum of compensation and includes even company liable to

pay the compensation. In other words. The rights of the person claiming compensation indirectly such as tenants or persons in occupation stand duly recognised. The Supreme Court observed as under:-
“11.

On a review of the case-law on the subject, it seems to me that the expression ‘person interested’ does not require that a person must really have an interest in the land sought to be acquired. It is enough if he claims an interest on compensation, as distinguished from an interest in the property sought to be acquired. As long as a person claims an interest in the compensation, he is a person interested within the meaning of the definition of that expression.”

20. Even earlier to the above decision, the Supreme Court in *The Collector of Bombay v. Nusserwanji Mistri*, AIR 1955 SC 298, in reference to Section 3 (b) of the Land Acquisition Act, observed that a ‘person interested’ includes all persons claiming an interest in compensation to be made on account of acquisition of the land and a person shall be deemed to be interested in the land even if he is interested in an easement affecting the land. Therefore, when a person having interest in the easement has been considered to be a ‘person interested, there is hardly any scope to leave aside the person in possession of the land to be excluded from the definition of the ‘person interested’.

21. In *Sharda Devi v. State of Bihar*, AIR 2003 SC 942, it was held by the Supreme Court that government is not a person interested within the meaning of Section 3 (b) of the Act and, State has no right to the compensation for the land. In view of the above, when State cannot claim compensation, there was no purpose for determining

compensation for the State land but for the fact that some other persons may be having rights therein as 'person interested' on the basis of the possession/tenancy.

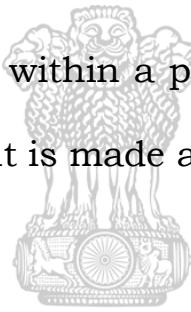
22. This is exactly the position in the present case, where while making the award, the Collector itself determined the compensation in respect of the aforesaid State land recognizing the tenancy/possession of the petitioner. Therefore, the compensation that has been determined under the award in respect of the land in question is for the person interested namely, the petitioner. Thus, it can safely be concluded that the petitioner is the person interested entitled to the compensation of the acquired land as per the final award dated 20.03.2012 to the tune of Rs.85,388/-, even though he may not be the owner of the property and the land is that of the State simply on the basis of his long possession which is not in dispute.”

16. Before another Division Bench of this Court in LPA No. 153/2020 titled Krishan Singh and anr. Vs. UT of J&K a similar question had fallen for determination. In fact, award dated 31.07.2015, which is subject matter of discussion in three of the aforesaid three writ petitions, was the subject matter of discussion in the said case as well. The Division Bench vide its judgment dated 21.08.2021 after analyzing the legal position on the subject concluded that the person in possession of land is a “person interested” and hence entitled to compensation of the acquired land as per the final award, even though he may not be owner of the property and the land is the State land.

17. In view of the foregoing legal position, it is clear that the writ petitioners who have been in long and continuous possession of the acquired land and in whose favour the respondent-Collector has assessed compensation by incorporating their names in the apportionment statement annexed to the two awards, one dated 31.07.2015 and another dated 11.08.2011, are entitled to compensation assessed in their favour.

18. For the foregoing discussion, all the writ petitions are allowed and a direction is issued to the respondents to forthwith release and make the payment of compensation to the petitioners along with statutory interest in terms of the award(s) and the apportionment statement(s) within a period of two months from the date, a copy of this judgment is made available to them.

19. Disposed of.



सत्यमेव जयते

(SANJAY DHAR)
JUDGE

JAMMU
29.09.2025
Tarun/PS

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