

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

**Reserved on: 23.07.2025
Pronounced on: 13.08.2025**

**OWP No. 1093/2004 c/w
OWP No. 1142/2009
WP(C) No. 2872/2023**

OWP No.1093/2004

1. Parshotma Devi, Aged 60 years
W/O Late Narinder Singh,
R/O Village Omara
Tehsil & District Udhampur
2. Sudarshan Singh, Aged 42 years
S/O Late Narinder Singh,
R/O Village Omara
Tehsil & District Udhampur
3. Varinder Singh, Aged 36 years
S/O Late Narinder Singh,
R/O Village Omara
Tehsil & District Udhampur
4. Rattna Devi, Aged 65 years
Wife of Late Sh. Joginder Singh,
R/O Village Omara
Tehsil & District Udhampur
5. Vikas Thakur, Aged 38 years
S/O Late Sh. Joginder Singh,
R/O Village Omara
Tehsil and District Udhampur
6. Vishal Thakur, Aged 36 years
S/O Late Sh. Joginder Singh
R/O Village Omara
Tehsil and District Udhampur
7. Rajinder Singh, Aged 64 years
Son of Late Sukhdev Singh,
R/O Village Omara
Tehsil & District Udhampur
8. Ravinder Singh, Aged 54 years,
Son of Late Sukhdev Singh,
R/O Village Omara
Tehsil & District Udhampur

9. Shakuntla Devi, Aged 79 years
Daughter of Late Sukhdev Singh,
R/O Village Omara
Tehsil & District Udhampur
10. Neelam Devi, Aged 49 years
Daughter of Late Sukhdev Singh
R/O Village Omara
Tehsil & District Udhampur
11. Sunita Devi, Aged 44 years,
Daughter of Sukhdev Singh,
R/O Village Omara
Tehsil & District Udhampur
12. Asha Devi, Aged 82 years
W/O Late Balbir Singh
R/O Village Omara
Tehsil & District Udhampur
13. Nisha Rani, Aged 28 years
Daughter of Late Balbir Singh
R/O Village Omara
Tehsil & District Udhampur
14. Pardeep Singh, Aged 27 years
Son of Late Balbir Singh
R/O Village Omara
Tehsil & District Udhampur
15. Neha, Aged 24 years
Daughter of Late Balbir Singh
R/O Village Omara
Tehsil & District Udhampur
16. Jasbir Singh, Aged 54 years
Son of Late Sansar Singh
R/O Village Omara
Tehsil & District Udhampur
17. Dalbir Singh, Aged 52 years
Son of Late Sansar Singh
R/O Village Omara
Tehsil & District Udhampur
18. Raghbir Singh, Aged 45 years
Son of Late Sansar Singh
R/O Village Omara
Tehsil & District Udhampur



19. Mohinder Singh, Aged 62 years
 Son of Late Moti Singh,
 R/O Village Omara
 Tehsil & District Udhampur

..... Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Adv with
 Ms. Veenu Gupta, Advocate.

VS

1. Union of India Respondent(s)
 through Defence Secretary, New Delhi.
2. Commandant 32 BN, CRPF, Udhampur.
3. State of J&K
 Through Deputy Commissioner, Udhampur
4. General Manager, State Road Transport Corporation,
 Udhampur.
5. Superintending Engineer, PWD, Udhampur.

Through: Mr. Vishal Sharma, DSGI with
 Mr. Sandeep Gupta, CGSC for R-1&2.
 Mrs. Monika Kohli, Sr. AAG for R-3.
 None for R-4.
 Mr. Ravinder Gupta, AAG for R-5.

OWP No. 1142/2009

1. Parshotma Devi, Aged 60 years
 W/O Late Narinder Singh,
 R/O village Omara
 Tehsil & District Udhampur
2. Sudarshan Singh, Age 42 years
 S/O Late Narinder Singh,
 R/O Village Omara
 Tehsil & District Udhampur
3. Varinder Singh, Aged 36 years
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R/O Village Omara
Tehsil & District Udhampur
19. Mohinder Singh, Aged 62 years
Son of Late Moti Singh,
R/O Village Omara
Tehsil & District Udhampur
20. Sushma Devi, Age 42 years
D/O Lt. Sh. Narinder Singh, ... Petitioner(s)
W/O Suran Singh, R/O C 22
Gandhi Nagar Police Line.
21. Bawita D/O Lt. Sh. Narinder Singh.
R/O C 22,
Gandhi Nagar Police Line.

Through: Mr. Sunil Sethi, Sr. Advocate with
Ms. Veenu Gupta, Advocate.

Vs

1. Union of India
through Defence Secretary,
New Delhi. . Respondent(s)
2. Commandant 32 BN, CRPF, Udhampur.
3. State of J&K
through Deputy Commissioner, Udhampur
4. General Manager, State Road Transport Corporation,
Udhampur.
5. Superintending Engineer, PWD, Udhampur.

Through: Mr. Vishal Sharma, DSGI with

Mr. Sandeep Gupta, CGSC for R-1&2.
 Mrs. Monika Kohli, Sr. AAG for R-3.
 None for R-4.
 Mr. Ravinder Gupta, AAG for R-5.

WP(C) No. 2872/2023

1. Shakti Devi, Age 61 years Petitioner(s)
 W/O Late Sh. Surinder Singh,
 R/O Ward No. 17,
 H. No. 239, Link road,
 Near Santosh Mata Mandir, Omara
 District Udhampur,
 PIN Code 182101.

2. Vikram Singh, Age 32 years,
 S/O Late Sh. Surinder Singh,
 R/O Ward No. 17, H. No. 239,
 Link Road, Near Santosh Mata Mandir,
 Omara,
 District Udhampur
 PIN Code 182101.

Through: Mr. Sunil Sethi, Sr. Advocate with
 Ms. Veenu Gupta, Advocate,

VS

1. Union of India through
 Defence Secretary, New Delhi.
 2. Commandant 32 BN,
 CRPF, Udhampur.
 3. Deputy Commissioner, Udhampur
 4. General Manager, State Road Transport Corporation,
 Udhampur. . Respondent(s)
 5. Superintending Engineer,
 PWD Udhampur.

Through: Mr. Vishal Sharma, DSGI with
 Mr. Sandeep Gupta, CGSC for R-1&2.
 Mrs. Monika Kohli, Sr. AAG for R-3.
 None for R-4.
 Mr. Ravinder Gupta, AAG for R-5.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

JUDGMENT

1. In all the three writ petitions, common question of fact and law is involved and, therefore, all these petitions are heard analogously and proposed to be disposed of by this common judgment.

2. Shorn of minute details, facts which give rise to filing of these petitions are separately, as follows:

In OWP No.1093/2004

3. The petitioners are owners to the extent of their share in land measuring 28 kanal 2 Marlas situated at Udampur, under Khasra Nos.76/1, 315/76, and 313/75, which has been under illegal possession of J&K State Road Transport Corporation (SRTC) since long; that the land was never legally acquired by the respondents, and illegal possession of J&K SRTC continued until 20.09.1994; that from 21.09.1994, the possession of the land measuring 29 kanal 1 Marla (including petitioners' land) was transferred to respondent No.2; that proceedings were initiated for payment of compensation to the petitioners, but the matter was never finalized; that due to continued dispute, the petitioners had earlier filed Writ Petition No.725/2000, which was disposed of by the High Court vide Judgment dated 26.02.2002; that in the said judgment, the court found that compensation had not been paid to the petitioners and directed the respondents to finalize and pay compensation within 3 months from the date of

the judgment; that it is averred in the petition that despite court's direction, the petitioners repeatedly approached the respondents, particularly, respondent no.3, but no compensation was paid and delayed the matter on one pretext or the other and the petitioners filed a contempt petition being COA(OW) No.258/2002 for violating the court's earlier judgment and that in the meanwhile, respondent no.2 started raising construction on the land without paying the compensation or settling the matter with the petitioners; and that the said construction raised by the respondents is affecting the petitioners' rights and hence the present petition.

OWP No. 1142/2009

4. The petitioners are owners to the extent of their share in land measuring 28 kanal 2 Marlas situated at Udampur, under Khasra Nos.76/1, 315/76, and 313/75, which has been under illegal possession of J&K State Road Transport Corporation (SRTC) since long; that the land was never legally acquired by the respondents, and illegal possession of J&K SRTC continued until 20.09.1994; that from 21.09.1994, the possession of the land measuring 29 kanal 1 Marla (including petitioners' land) was transferred to respondent No.2; that proceedings were initiated for payment of compensation to the petitioners, but the matter was never finalized; that due to continued dispute, the petitioners had earlier filed Writ Petition No.725/2000, which was decided by the High Court vide Judgment dated 26.02.2002; that in the said judgment, the court found that compensation had not been paid to the petitioners and directed the respondents to finalize and pay compensation within 3 months from the date of the judgment; that it is averred in the petition that despite court's direction, the

petitioners repeatedly approached the respondents, particularly, respondent no.3, but no compensation was paid and delayed the matter on one pretext or the other and the petitioners filed a contempt petition being COA(OW) No. 258/2002 for violating the court's earlier judgment, in which respondent no.3 informed the court that he has already passed an order dated 02.11.2004 (impugned order) by virtue of which he has given finding that he could not decide the issue as directed by this court; that this court on the basis of reply filed in the contempt petition by the respondents dismissed the contempt petition filed by the petitioners; that prior to decision of the contempt petition, the petitioners filed another writ petition namely OWP No. 1093/2004 on the facts stated supra.

OWP No. 2872/2023

5. The petitioners, Shakti Devi and another, are the lawful owners to the extent of their share in land measuring 28 Kanal 2 Marlas, situated in Village Omara, Tehsil and District Udhampur, bearing Khasra Nos. 76/1, 315/76, and 313/75. The land in question was never formally acquired by the respondents through any lawful process. However, the J&K State Road Transport Corporation (J&K SRTC) took illegal possession of the land and retained it up to 20.09.1994, using it for its transport yard.

5.1. That, subsequently, on 21.09.1994, the possession of the said land, including the petitioners' land, measuring a total of 29 Kanal 1 Marla, was handed over to Respondent No. 2. Despite such transfer, no compensation was ever paid to the petitioners or their predecessors for the said land.

5.2. That, the petitioners, as early as 03.07.1986, had represented their grievance to Respondent No. 3 regarding the illegal possession of their land and sought necessary action. The Transport Department, in its letter dated 18.04.1994, admitted that no compensation had been paid either to the petitioners or their predecessors for the occupation of their land.

5.3. That, further, on 26.04.1997, Respondent No. 3 reiterated through an official communication that compensation for the petitioners' land had not been paid and stated that steps would be taken to process the payment of compensation.

5.4. That, due to continued inaction, the petitioners filed Writ Petition No. 725/2000 before this Court. The said writ petition was decided on 26.02.2002, whereby this Court held that compensation had not been paid and directed the respondents to finalize and pay the compensation to the petitioners within three months from the date of the judgment. However, despite repeated follow-ups, the respondents failed to comply with the court's direction and continued to delay payment on one pretext or another, leaving the petitioners without any remedy. As a result, the petitioners were compelled to file a contempt petition.

5.5. In blatant disregard of the pending issues, Respondent No. 2 began unauthorized construction on the disputed land without resolving the compensation matter or paying the petitioners. Additionally, the petitioners challenged the order dated 02.11.2004, passed by Respondent No. 3, wherein he avoided deciding the issue of compensation, despite the clear mandate of this Court. Hence the present writ petition is filed.

Objections on behalf of respondent-Deputy Commissioner, Udhampur

6. It is averred in the objections filed on behalf of Deputy Commissioner, Udhampur that the writ petitions involve disputed question of facts, which cannot be adjudicated upon by this court in exercise of writ jurisdiction; that the petitioners filed Writ Petition No.725/2000 before this court, which was disposed of by this court on 26.02.2002 with the directions that petitioners would appear before the Deputy Commissioner, Udhampur who would determine, among other things, as to when land was acquired, who were entitled to the compensation and to whom the compensation has been paid, and whether the compensation has actually been paid to the land owners or not; that in the meantime, petitioners filed contempt petition bearing COA(OW) No.258/2002; that, in compliance to the order dated 26.02.2002 passed by this Court, the respondent passed the order dated 02.11.2004 and this court disposed of the contempt petition after considering the order (supra) passed by the Deputy Commissioner, Udhampur, by giving liberty to the petitioners to avail appropriate legal remedy; that in view of order dated 02.11.2004 passed by the Deputy Commissioner, Udhampur, the writ petition is rendered infructuous and, thus, is liable to be dismissed.

Objections on behalf of respondent-JKSRTC

7. It is stated in the objections that the writ petitions are not maintainable as the answering respondent i.e. the J&K State Road Transport Corporation, has not been made a necessary party; that this procedural lapse makes the entire writ petitions defective and are liable to be dismissed; that no relief can be granted

against a party that has not been properly impleaded, thereby vitiating the maintainability of the writ petitions before the High Court; that the land measuring 11 kanals and 1 marla, falling in khasra No.315/76, was acquired lawfully in the year 1951 by the then Govt. Transport Undertaking (GTU) through the PWD (R&B) agency; that compensation at the rate of Rs.150 per kanal was paid, totally Rs.1657.50, which was remitted to the office of Tehsildar Udhampur for disbursement; that further official correspondences including those from the Executive Engineer and Deputy Commissioner, confirmed the compensation and did not object to the transfer of land in favour of the respondent-Corporation; that the petitioners have raised the issue after an unexplained delay of 35 years, which is both unreasonable and legally fatal to their claim; that such delay disqualifies them from seeking equitable relief under writ jurisdiction; that respondent submits that possession was confirmed by respondent no.3 in the impugned order and it was neither unauthorized nor illegal; that respondent also acquired an additional 20 kanals of land through the PWD(R&B) agency for the construction of transport yard facilities and compensation whereof was calculated at Rs.150.00 per kanal for cultivable land and Rs.50.00 for barren land, totally Rs.2583.75; that out of this, 18 kanals and 18 marlas belonged to Sh. Amar Nath Rajput, who was duly paid and the rest belonged to others, for whom no agreement could be reached. Furthermore, compensation of Rs.7590.00 was paid for 1 kanal 2 marlas of land in khasra No.317/77, as per award dated 04.05.1973, which was confirmed by the Collector. It is lastly prayed that the petitioners are not entitled to any relief, as

the land was acquired lawfully and compensation was paid to rightful owners. The record of such transactions, although currently untraceable, was confirmed through official communications. It is prayed that the writ petitions be dismissed out rightly with hefty costs.

8. In the objections filed on behalf of respondents 1 and 2, it is contended that the present petitions are not maintainable for non joinder of party as it has been admitted in the writ petitions that the land belonging to the petitioners was illegally in possession of J&K SRTC and not by answering respondents, therefore, on this count only, the petitions are not maintainable against respondents 1 and 2.

Objections on behalf of respondent no.5-PWD(R&B)

9. It is contended in the objections that disputed questions of facts have been raised in these petitions, which cannot be adjudicated upon by this court in exercise of writ jurisdiction; that although respondent no. 5 has been arrayed as respondent in the petitions, but no relief is sought against respondent no.5. Hence, it is prayed that respondent no. 5 be deleted from the array of respondents.

10. Heard learned counsel for the parties at length, perused the record and considered the matter.

11. Learned senior counsel appearing for the petitioners submits that the petitioners' predecessors-in-interest were owners in possession of the subject land measuring 28 kanal and 2 marlas comprising of Khasra Nos. 76/1, 315/76,

313/75, which was initially taken over by the Government machinery in District Udhampur to set up a Transport Yard for the Government Transport Undertaking and later remained under the possession of J&K State Road Transport Corporation which was formed in place of the Government Transport Undertaking till 20.09.1994 and thereafter the District Administration made this land available to the Central Forces deployed for internal security and that this piece of land is currently under the possession of the respondent-Central Reserve Police Force (CRPF) and that the land owners have neither been paid any rent of land nor the land has been acquired so as to pay compensation to the land owners.

12. He further argued that a portion of land measuring 7 kanals comprising of Khasra No.313/75 came under dispute before the Estate Officer, Udhampur before 1991 and against order of the Estate Officer vide order dated 19.03.1991 under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act passed the order in a dispute between one Janak Raj and Sukhdev Singh (Predecessors in interest of the petitioners) against which a miscellaneous appeal came to be filed before the District Court, Udhampur and vide judgment dated 30.05.1998, the learned District Judge held that in view of the record produced by the Government Departments that the land belong to respondent Sukhdev Singh (predecessors-in-interest of the petitioners herein) and the proceedings initiated for the eviction of the unauthorized occupants was held to be without any jurisdiction as the land in question could not be deemed to be a public premises so as to attract the provisions of the Public Premises

(Eviction of Unauthorized Occupants) Act, and the order passed by the Estates Officer was set aside.

13. Building his argument on this analogy of the judgment of the District Judge, Mr. Sethi has argued that whole of the subject land is the proprietary land of the predecessors-in-interest of the petitioners and the same having not been acquired properly is still owned by the land owners who have not even been paid their rent of the land in question. He further argued that the land owners invoked the writ jurisdiction of this court in OWP No. 725/2000 and vide judgment/order dated 26.02.2002, the Deputy Commissioner, Udhampur being Collector was directed to decide the matter after giving proper opportunity of being heard to the petitioners therein and all other land owners and also to the respondents determine some disputed questions of facts with regard to the acquisition, entitlement to compensation and payment made if any, however, the Deputy Commissioner in his order dated 02.11.2004 kept his hands off by stating that he has been unable to decide the issues ordered to be decided as directed by this court and order passed by the Deputy Commissioner was made subject matter in another writ petition OWP No. 1142/2009 to seek setting aside of the same.

14. Learned senior counsel argued that the impugned order is *prima facie* flawed as it disregards this court's directions issued on 26.02.2002 in OWP No.725/2000, whereby respondent no.3 was to determine the petitioners' ownership and their entitlement to compensation; that respondent no.3 ignored revenue records and government communications supporting petitioners' ownership and claim for compensation; that the order impugned was passed

without examining the revenue reports indicating the petitioners' entitlement and without following due process; that important documents like the letters dated 03.07.1986, 26.04.1997, and the judgment dated 30.05.1998 titled "*Janak Raj v. Estate Officer, Udhampur and anr.*" passed by learned District Judge were not considered while passing the impugned order, which confirmed the land as private property not belonging to SRTC; that respondent no.3 issued the order without responding to the writ petitioners' claims and without addressing crucial legal documents, reflecting clear illegality; that respondent no.2 also failed to justify their possession or use of the land, while respondent no.4 did not submit any supporting documents in their response. Lastly, it is prayed that the impugned order be quashed and respondents be directed to vacate the land of the petitioners or to acquire the land formally after following due process of law.

15. Learned counsel for the respondents-UOI and CRPF submits that these respondents do not need to acquire the land and it is the duty of the State/UT to provide accommodation to the CRPF Bn. which has been stationed there for internal security. He submits that it is for the UT/State Government to provide the infrastructure for this purpose and that the CRPF Units stationed in the subject land can shift to any other place to be provided to them. As such, these respondents have nothing to do with the acquisition of the land or to pay compensation to the land owners.

16. Though no counsel appeared on behalf of respondent-JKSRTC, however, as per the objections filed by it, the Government Transport Undertaking had acquired 11 kanals and 1 marla of the land comprising of Khasra No.315/76

lawfully in the year 1951 through Public Works Department against total compensation of Rs.1657.00 and that the land owners after unexplained delay of 35 years are disqualified from seeking equitable relief under writ jurisdiction; that 18 kanals 18 marlas of land had also been taken over and a compensation of Rs.2583.75 had been paid to land owner Amar Nath Rajput, however, no agreement could be reached with other land owners.

17. The petitioners in the year 2004 filed OWP No. 1093/2004 seeking restraint orders to the respondents from raising any construction over the subject land without proper acquisition. The petitioners in the year 2009 through OWP No. 1142/2009 sought to set aside of the order passed by the Deputy Commissioner whereby he had shown his inability to decide the matter as directed by this court vide judgment dated 26.02.2002 passed in OWP No. 725/2000. The petitioners in WP(C) No. 2872/2023 have also filed a petition seeking direction to the respondents to restrain respondent CRPF from raising any construction without resolving the compensation matter and also sought quashment of the order dated 02.11.2004 passed by respondent-Deputy Commissioner, Udhampur, wherein he had allegedly avoided deciding the issue of compensation despite the clear mandate of this court.

18. The respondent-Deputy Commissioner, Udhampur, who is also Collector of the District, has not specifically pleaded anything except that the Deputy Commissioner had already passed the order dated 02.11.2004 pursuant to the orders passed by this court in OWP No. 725/2000. Respondent-Public

Works Department (PWD) has not taken a stand and stated that no relief has been sought against them.

19. The petitioners, in all the three petitions, claiming to be owners on the basis of inheritance of the land measuring 28 kanals 2 marlas comprising of khasra Nos.76/1, 315/76, and 313/75 alleged that their land had been under illegal possession of the respondent-JKSTRC up to 20.09.1994 and that this land came under the possession of respondent-CRPF w.e.f. 21.09.1994. It was alleged that the respondents have occupied and used the petitioners' land without paying them any rentals thereof or compensation.

20. The petitioners, initially, filed writ petition OWP No. 725/2000 with regard to the subject matter, which was disposed of by this court, vide judgment dated 26.02.2002. The operative portion of the judgment is reproduced for convenience:

“Petitioner submits that his land has been acquired, but the compensation has not been paid.

The stand taken by the J&K State Road Transport Corporation is that the land was acquired and compensation was paid to the father of the petitioners No.1 and 2 and some other owners also. For this reliance is being placed on a communication dated 31st Jan 1968. The question as to whether the payment has been made or not is a disputed question of fact. Even otherwise Annexure R-1 (dated 31.01.1968) is not proof of the fact that the payment in fact has been released in favour of the claimants. Therefore, the petitioners would appear before the Deputy Commissioner, Udhampur, who is also Collector of the District. The Collector would determine the following disputed questions of facts:

- i) as to when the land was acquired;***
- ii) as to who were entitled to the compensation;***
- iii) as to whom the compensation has been paid;***

iv) *Whether the compensation has actually been paid to the land owners or not.*

Parties are directed to appear before the Deputy Commissioner, Collector, Udhampur on 02.04.2002. The Deputy Commissioner, Collector, Udhampur after giving proper opportunity to the petitioners and other land owners and the respondents who figure in this petition, would decide the matter within a further period of three months. If any amount is not disbursed then that be not disbursed till the matter is decided by the Deputy Commissioner, Collector.

Disposed of accordingly.”

21. As per the objections filed by the Deputy Commissioner, Udhampur, in compliance to the judgment dated 26.02.2002, the Deputy Commissioner addressed the issue in his order dated 02.11.2004, the operative portion whereof is reproduced as:

“After hearing the arguments from counsel for petitioner and counsel for respondents and detailed examination of the records which they have produced before me, I came to conclusion that counsel for petitioner and counsel for respondents failed to produce concrete evidence in support of their ownership and possession. They have simply narrated the facts which are already available on records and none of the counsel have produced new evidence like original copy of sale deed, record of proceeding for land acquisition like notification under Section 4(1), acquaintance roll for land acquisition, details of the payment made, entry regarding transfer of land etc.

As such it is very difficult to determine the exact details like as to when land was acquired, as to who are entitled to compensation, as to whom compensation has been paid,

whether the compensation has actually been paid to land owners or not.

However, after detailed scrutiny of the records available on the file I came to conclusion that the matter regarding ownership of the disputed land has been agitated by the petitioner after 35 years in 1980. Whereas the change in the Girdawari and records of rights and other revenue records was effected in year 1950. After 35 long years the matter was agitated by the petitioners whereas the respondents are already in the possession of the land in question since year 1950 till date. As per revenue record and report submitted by Tehsildar on 21.08.1985 the land under Khasra No.76/1 measuring 6 Kanal, 315/76 measuring 11 kanal-01 marla and 313/75 measuring 10 kanal-07 marla total measuring 27 kanal-8 marla situated at Moza Omara is recorded in ownership of Sukhdev Singh and other and land under Khasra No.313/75 measuring 10 kanal-07 marlas is recorded since Rabi 1961 in possession of Public Works Deptt due to sale deed and land under Khasra No.76/1 min measuring 6 kanals is recorded in Rabi 1957, and Khasra No. 315/76 measuring 11 kanal-01 marla recorded since Kharif 2010 BK in possession of Transport Department and this position is continuing till date. Nothing is rebuttle to the revenue record has been produced by the petitioner.

Under Section 31 of land revenue act any entry made in record of rights in accordance with the law for the time being in force, or in an annual record in accordance with provision of this chapter and the rules there under shall be presumed to be true until the contrary is proved. Further if any person considers himself aggrieved by an entry in record of rights he

may institute a suit before the Collector (Deputy Commissioner) for the correction of the record, and for the possession of the right claimed if he is not in possession thereof, within one year (2 years in the case of Frontier Districts of Gilgit and Ladakh) from the date of publication of the record of the distribution of the assessment under section 49, sub section (1).

In the absence of record, the undersigned is unable to decide the issues, ordered to be decided by the Hon'ble Court in judgment dated 26.02.2002 passed in OWP No. 725 of 2000 tilted Moti Singh and others V/S State and others."

22. A portion/parcel of the subject land measuring seven kanals comprising of Khasra No.313/75 of Village Umara out of the subject land was allegedly encroached upon by one Janak Raj and eviction proceedings against him were initiated by the Estates Officer under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act and consequently vide order dated 19.03.1991, he was ordered to be evicted.

23. A perusal of record would show that Civil Misc. Appeal No.42/1991 titled **Janak Raj v. Estate Officer & Anr.** came to be instituted on 18.04.1991 before the District Court, Udhampur against the order dated 19.03.1991 passed by the Estate Officer, Udhampur, by virtue of which, eviction of the appellant had been ordered. The learned District Judge, Udhampur vide judgment dated 30.05.1998 set aside the impugned order and observed that the premises involved and the subject land, admittedly belonged to the respondent No.2- Sukhdev Singh (one of the predecessors-in-interest of the petitioners), and the

premises in question was a private premises. In view of the judgment dated 30.05.1998 (supra), which is stated to be not assailed any further, as such, it is claimed that the findings recorded by the District Court in its judgment, have attained finality.

24. In the objections filed by the SRTC, it has been stated that the land in question was acquired by Government Transport Undertaking, which later became J&K State Road Transport Corporation in the year 1951, against some payments through Public Works Department, meaning thereby, that the petitioners' proprietary land continues to be in possession of respondent since 1951, initially by Government Transport Undertaking, later by its new avatar JKSRRTC till 1994, when this land was made available to the Central Armed Paramilitary Forces which was deployed for internal security and is currently under the possession of respondent-Central Reserve Police Force (CRPF).

25. From the pleadings of the parties, it has been found that the land which is the subject matter of these writ petitions, owned by the petitioners or their predecessors, was occupied and used initially by the Govt. Transport Undertaking (GTU) on the basis of some private negotiations with the owner of the land and later by J&K State Road Transport Corporation (JKSRRTC) upto the year 1994 and thereafter has been under the use and occupation of the Central Reserve Police Force (CRPF) till now. The Deputy Commissioner, Udhampur who is Collector of the District under the Revenue laws as well as Land Acquisition Law, despite the directions of this court, in an earlier Writ Petition (OWP No. 725/2000) vide judgment dated 26.02.2002 had failed to ascertain the

title of the land in his enquiry and has shown his inability to do so in the impugned report/order dated 02.11.2004.

26. Even the judgment relied upon by the petitioners in a statutory appeal under the Public Premises (Eviction of Unauthorized Occupants) Act, with regard to a parcel of the land cannot be applied to whole of the land in question.

27. As per record, as indicated by the Deputy Commissioner Udhampur in his order dated 02.11.2004 impugned herein, the subject land has been recorded in the Revenue Record- 10 Kanals and 07 Marlas (Khasra No.313/75) in possession of PWD on the basis of Sale Deed, 6 Kanals (Khasra No.76/1) and 11 kanals and One Marla (Khasra No.315/76) in possession of Transport Department. Respondent-JKSRTC has claimed to have purchased another piece of land measuring 20 Kanals through the agency of PWD (R&B) for construction of kitchens and latrines and further improvement of transport yard. The disputed questions of facts have been raised and are found involved, in these petitions, particularly, petitioners claiming that their proprietary land has been used and is under illegal possession of the respondents, whereas, respondent-JKSRTC claims that the land was transferred to them on the basis of private negotiations, which has also been reflected and recorded in the revenue record. The reliance of the petitioners on the judgment of the District Court, in the analogous case of eviction, with regard to a portion of the subject-land, cannot be treated, as an absolute finding of fact on title of the land, between the parties herein.

28. Viewed thus, having regard to the disputed facts, this court is of the considered opinion that under the writ jurisdiction, the matter cannot be decided, which may require recording of evidence, for and against. As a result, all the petitions are thus held to be non-maintainable and are dismissed. The petitioners, however, shall be at liberty to work out their civil remedies and the period spent on prosecution of these petitions shall not come in their way, in respect of limitation. No order as to costs.

29. This common judgment shall be placed across all the three files.

30. Petitions are disposed of as dismissed. No order as to costs.

(MA Chowdhary)
Judge

Jammu
13.08.2025
Raj Kumar

Whether the order is reportable?	Yes
Whether the order is speaking?	Yes