

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

*Case No. WP(C) No. 2767/2025
CM No. 6345/2025*

*Date of Pronouncement:- 19.11.2025
Uploaded on:- 24.11.2025*

Parbhat Singh Age 62 years
S/o Lt. Sh. Bharav Singh,
R/o Village Biaspur Tehsil Suchetgarh
Distt. Jammu.

.....Petitioner(s)

Through: Mr. Rudhar Pratap Singh, Advocate

Vs

1. Union Territory of Jammu and Kashmir Through
Secretary to Government Jal Shakti/Irrigation & Flood
Control Department, Government of Jammu & Kashmir,
Civil Secretariat, Jammu
2. Chief Engineer, Tube-well & Irrigation Department,
Jammu.
3. Superintendent Engineer, Hydraulic Circle, Jammu.
4. Deputy Commissioner Jammu.
5. Executive Engineer, Tube-well & Irrigation Division,
Jammu.

..... Respondent(s)

Through: Ms. Priyanka Bhat, Advocate vice
Mrs. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

ORDER(ORAL)

1. Upon coming of the instant matter for consideration, the counsel for the petitioner, while making submissions in line with the case set up in the petition, invited the attention of this Court to the Division Bench judgment passed in case titled as ***“Chuni Lal Bhagat Vs. State of J&K &another”*** bearing OWP No. 682/2018, clubbed with WP(C) Nos. 537/2022 and 538/2022, decided on 17.03.2023 and would contend that the said judgment is squarely applicable to the case of the petitioner and that in the said

judgment, the Division Bench held that the proprietary land of a citizen cannot be acquired without following the procedure established by law and resorting to acquisition proceedings, as the right to property is a valuable constitutional right and that the State cannot take the proprietary land of a citizen without acquiring the same and that reliance heavily was placed on the judgment of the Apex Court passed in case titled as ***“Harisingh Mandir Trust Vs. State of Maharashtra & others”*** reported in (2020) 9 SCC 356, wherein at paras 99 and 100, the following came to be held as under:

“99. In case of dispossession except under the authority of law, the owner might obtain restoration of possession by a proceeding for Mandamus against the Government as held by this Court in *Wazir Chand v. State of Himachal Pradesh* AIR 1954 Supreme Court 415. Admittedly, no compensation has been offered or paid to the appellant Trust. As observed by this Court in *K.T. Plantation Private Limited and Anr. v. State of Karnataka* (2011) 9 SCC 1, even though the right to claim compensation or the obligation of the State to pay compensation to a person who is deprived of his property is not expressly provided in Article 300A of the Constitution, it is inbuilt in the Article. The State seeking to acquire private property for public purpose cannot say that no compensation shall be paid. The Regional and Town Planning Act also does not contemplate deprivation of a land holder of his land, without compensation. Statutory authorities are bound to pay adequate compensation.

100. The High Courts exercising their jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a Writ of Mandamus or in the nature of Mandamus, but are duty bound to exercise such power, where the Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a Statute, or a rule, or a policy decision of the Government or has exercised such discretion mala fide, or on irrelevant consideration.”

2. Learned counsel for the petitioner would also submit that the proprietary land of the petitioner measuring 01 Kanal covered under Khasra No. 287, situated at Village Biaspur, Tehsil R S Pura, District Jammu came to be taken over by the respondents without following the due procedure established by law and in respect of said land, a gift deed also came to be got executed by the respondents with the petitioner on 25.01.2018, wherein it

came to provided that the land in question stands transferred unto the respondents for installation of a tubewell for irrigation purposes and that though the petitioner was initially promised an appointment to a family member in lieu of the said land, yet no appointment was offered by the respondents, inasmuch as, no compensation for the land in question was granted to the petitioner, despite that the petitioner repeatedly approached the respondents and sought either appointment in lieu of the land or else compensation thereof.

3. Objections to the petition have been filed by the respondents, wherein, it is being admitted that the petitioner provided his land for installation of a tubewell in the year 1996, whereafter a formal gift deed as well came to be executed by the respondents with the petitioner on 25.01.2018, while denying that any assurance was extended to the petitioner for providing employment to one of his family members in lieu of the donated land, as the Government had imposed a ban on the engagement of CSLW pursuant to order dated 17.03.2015 and that yet the case of the petitioner was considered and forwarded to the Tehsildar concerned on 17.10.2022 for assessment and status of the land, inasmuch as, its value as per the rates approved by the Government, whereupon on verification, it got revealed, as per the information uploaded on the official website of the respondents, that the land of the petitioner stands utilised for installation of a tubewell, which tubewell is being utilised for the purposes of irrigation of the agricultural land by the farmers of the area.

Heard counsel for the parties and perused the record.

4. As is manifest from the respective pleadings of the parties as noticed in the preceding paras, indisputably, the land of the petitioner has been utilised by

the respondents for installation of a tubewell, which have had been taken over without any acquisition proceedings by the respondents, inasmuch as, any compensation paid thereof to the petitioner and the said taking over of the land of the petitioner by the respondents also gets authenticated by the contents of the gift deed annexed with the petition by the petitioner, executed *inter se* the petitioner and the Executive Engineer, Tubewell Irrigation Division Jammu, J&K Government on 25.01.2018 and the execution of which gift deed is not disputed or denied by the respondents, even the verification of the land in question in this regard as per the stand taken by the respondents in the reply affidavit filed to the petition also authenticated by the respondents from the concerned revenue authorities and an information in this regard as well admittedly has been uploaded by the respondents on their official website to show that the land has been utilised for installation of tubewell by the respondents for the purpose of irrigation of the agricultural land in order to provide benefit to the farmers of the area.

5. In view of the aforesaid factual position obtaining in the matter, as also having regard to the judgment (*supra*) rendered by the Division Bench, inasmuch as, the issue involved therein, it is manifestly clear that the said judgment is squarely applicable to the case of the petitioner. Thus, having regard to the aforesaid position, the instant petition succeeds, as a consequence whereof, the respondents are commanded to initiate steps for acquiring the land of the petitioner under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013, within a period of three months from the date a copy of this judgment and order is produced by the petitioner before the respondents. The respondents also shall be liable to pay rentals to the

petitioner for the use and occupation of the land in question from the date the land was taken over by the respondents till the aforesaid acquisition proceedings are concluded by them.

6. *Disposed of.*

(Javed Iqbal Wani)
Judge

Jammu
19.11.2025
Diksha

Whether the judgment is speaking: Yes
Whether the judgment is reportable: Yes/No

