

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

Case:- WP(C) No. 2530/2022

Mohd. Rashid, Age 66 years Appellant(s)/Petitioner(s)
S/o Sh. Bir Mohd. R/o Kotli Kalaban,
Tehsil Manjakote, District Rajouri.

Through: Mr. Mohd. Arif, Advocate.

Vs

1. Union Territory of Jammu and Kashmir through
Commissioner/Secretary Revenue
Department Civil Secretariat,
Jammu/Srinagar. Respondent(s)
2. Union Territory of Jammu and Kashmir through
Commissioner/Secretary Public Works Department Civil
Secretariat, Jammu/Srinagar.
3. Union of India through Director General, Border Road
Organization, C/o 58 RCC,
Rajouri.
4. Chief Engineer, Public Works Department, Jammu.
5. Deputy Commissioner, Rajouri.
6. Executive Engineer, PWD, Rajouri.
7. Tehsildar Manjakote, Rajouri.

Through: Mr. Vishal Sharma, DSGI
Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(02.05.2025)

1. This writ petition can be disposed of at this stage by taking care of the petitioner's concern in a fair manner.
2. There is no apparent dispute/denial to the fact that the petitioner is one of the recorded co-owners/co-sharers of the landed

property comprised in khasra Nos. 603 and 609 of village Kotli Kalaban, tehsil Manjakote, district Rajouri as per revenue record.

3. Khasra No. 603 is recorded to be comprising of 1 kanal 13 marlas as a gair mumkin kotha which serves as a residential house of the co-owners/co-sharers including the petitioner.

4. Similarly, khasra No. 609 measuring 19 kanals 10 marlas is also related and recorded in ownership and cultivation of the petitioner and his other co-sharers and co-owners and is said to be having residential houses built thereupon though not revenue recorded.

5. The petitioner came forward bearing a concern that in the road widening/upgradation of National Highway, Jammu-Rajouri, Akhnoor-Poonch, (NH-144-A), the petitioner's residential house located in khasra No. 603 is being threatened with demolition and damage without acquisition and also the grave yards obtaining at the said khasra number are exposed to damage in the road of upgradation/widening process of the National Highway.

6. In the present writ petition, it is the respondent No. 3 which is engaged in the upgradation and road widening of the National Highway 144-A.

7. The respondent no. 5 & 7 are the revenue authorities of the District Rajouri being Deputy Commissioner, Rajouri and Tehsildar Manjakote, Rajouri.

8. The respondent No. 3 in its objections has come forth with a categoric and assuring stand that in the process of upgradation and widening of the National Highway for the stretch in reference only 3 marlas area of the land, out of khasra No. 603, is meant to be acquired and used without touching the rest of the khasra No. 603 which otherwise is comprising of 1 kanal and 13 marlas meaning thereby 1 kanal 10 marlas of land to remain intact in the ownership of its co-owners/co-sharers which includes the petitioner as well.

9. It is further stated in the reply by the respondent No. 3 that the proposed 3 marlas of land under acquisition does not in any manner relate/connect to the house structure so as to pose any danger of damage thereto, and infact is a part of the passage leaving to the residential house in khasra No. 603 and, therefore, by no stretch of imagination the house structure in khasra No. 603 is being acquired or the grave yard said to be obtaining at said khasra No. 603 is meant to be damaged and, therefore, the petitioner shall stay assured that for acquisition of 3 marlas of land out of khasra No. 603 due compensation will be assessed and paid to the rightful owners/sharers/claimants which may include the petitioner as well.

10. With respect to khasra No. 609, the Tehsildar Manjakote, district Rajouri has come forward with a reply to say that in khasra No. 609 also there is a residential house pertaining to the petitioner and out of this khasra No. 609 measuring 19 kanals 10 marlas, some acquisition is also proposed to be 6.86 kanals acquired for

which also the compensation upon assessment will be duly disbursed to the claimants.

11. Today, Mr. Abdul Gafoor, Patwari Halqa Gambir Muglan, District Rajouri, under whose jurisdiction village Kothi Kalaban fall, has come forward along with the revenue record and he also endorses the fact that out of khasra No. 603, 3 marlas of land is coming under the acquisition without touching the house property obtaining in the khasra No. 603 and out of khasra No. 609, 6.86 kanals of land is coming under acquisition again without touching house property in said khasra number.

12. The statement of Mr. Abdul Gafoor, Patwari Halqa Gambir Muglan, District Rajouri is well meaning and this Court has no reason to discredit the said statement and assurance to take due care and concern of the petitioner that house structure be it in khasra No. 603 or 609 of village Kotli Kalabani relatable to the petitioner and other co-sharers/co-owners are not getting effected.

13. In the light of aforesaid, this writ petition is disposed of with a direction that only the land intended for acquisition be acquired to that extent which surely not including the house structures and in case if in the process of upgradation and road widening any damage to the house structure obtaining in the khasra Nos. 603/609 comes to take place, then the petitioner shall be at liberty to come forward with appropriate legal course of action bearing cause of action for damage to the house property for

compensation purposes and the disposal of the present writ petition will not be read as prejudicial to the right of the petitioner or for that matter of other co-owners/co-sharers.

14. Disposed of.

(RAHUL BHARTI)
JUDGE

JAMMU
02.05.2025
Shivalee

Whether the order is speaking: Yes/No.

Whether the order is reportable: Yes/No.

