

Regular List
Serial No. 06

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

OWP No. 1701/2017

Date of pronouncement : 23.12.2025

Uploaded on : 24.12.2025

Haji Ghulam Mohd. Lone

....Petitioner

Through:- Mr. Irfaan Khan, Advocate.

V/s

State of J&K & Ors.

....Respondents

Through:- Ms. Nazia Fazal, Assisting Counsel vice
Mrs. Monika Kohli, Sr. AAG.
Ms. Pallavi Sharma, Assisting Counsel
vice
Mr. Ravinder Gupta, AAG.

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

01. With a purported grievance relating back to the year 2008-09 related with construction of a link road from **“Suli Gali to Village Chakras, Shajroo, Mahore”** taken up for construction under the Pradhan Mantri Gram Sadak Yojana (in short, **“PMGSY”**) Scheme, the petitioner’s land measuring **2.10 kanal** comprised in khasra Nos. **610/335** and **691/335** of village Shajroo tehsil Mahore is said to have come under acquisition, for which he came to be paid compensation of **Rs. 1.70 lac.**

02. It occurred to the petitioner in the month of October 2017 that in the process of construction of the said road, his non-acquired land in the vicinity measuring 100 kanals, which was bearing orchard comprising of more than 700 trees, was damaged due to big boulders, dumping of huge malba/debris, which affected even the agricultural nature of said 100 kanals of land allegedly of the petitioner comprised in khasra Nos. **417/335**, **492/335** and **610/335** in village Shajroo tehsil Mahore.

03. The petitioner is said to have filed an application in February 2009 before the Sub-Divisional Magistrate (SDM), Mahore, Reasi for the assessment of the purported loss suffered by him in subjecting his land located in the aforesaid khasra numbers which alleged suffered damage in terms of the nature of the soil as well as of 700 standing trees thereupon.

04. Sub-Divisional Magistrate (SDM), Mahore, Reasi is said to have directed the Tehsildar, Mahore to report the factual position, whereupon Patwari-Halqa, Shajroo had come up with a verification and spot inspection wherefrom the matter was then referred to Executive Engineer, PMGSY, Mahore but no outcome came forth constraining the petitioner to revive the matter again in February 2015 which again resulted in a process with Sub-Divisional Magistrate, Mahore directing **(i)** SDAO, Dharmari, **(ii)** HDO, Mahore, **(iii)** DFO,

Mahore and (iv) Tehsildar, Mahore to assess the loss was to the fruit and non-fruit bearing trees of the petitioner.

05. In this exercise also, Patwari-Halqa, Shajroo is said to have submitted a detailed report to the Sub-Divisional Magistrate (SDM), Mahore purportedly endorsing the fact that the petitioner had suffered damage to his land as well as fruit bearing and non-fruit bearing trees.

06. From the end of Sub-Divisional Magistrate (SDM), Mahore, the officials of PMGSY Establishment are said to have been requested to pay compensation to the petitioner, but nothing positive came out when finally in September 2015, the petitioner came to be informed that he cannot be paid compensation.

07. The petitioner came up with the institution of the present writ petition-**OWP No. 1701/2017** on **24.10.2017**.

08. In the writ petition, the petitioner is asking for the following reliefs:-

“a) an appropriate, order or direction more particularly a writ of mandamus thereby commanding and directing the respondents to pay compensation to the petitioner at prevalent market rate alongwith interest @ 18% P.A. for causing damages to the land of the petitioner measuring approximately 100 kanal falling under khasra no. 610/355, 691/355, 417/359, 692/355, 210/355 situated at village Shajroo, Tehsil Mahore Distt- Reasi;

b) an appropriate writ, order or direction more particularly a writ of mandamus thereby commanding and directing the respondents to pay compensation to the petitioner at prevalent market rate alongwith interest @ 18% p.a. for causing damages to the fruit bearing, non fruit bearing trees and crop of the petitioner standing over the land of the petitioner, as has been paid to similarly situated persons.

c) an appropriate writ, order or direction more particularly a writ of mandamus thereby commanding and directing the respondents to pay Rs. 1,00,000/- as cost of litigation.”

09. The respondent No. 1 i.e., the State of Jammu & Kashmir through Commissioner/Secretary, PWD (R&B) joined by respondent No. 2-Chief Engineer, PMGSY, Jammu and the respondent No. 3-Executive Engineer, PMGSY, Mahore, Reasi have come forward denying and disputing each and every averment made in the writ petition by the petitioner.

10. In their reply, the answering respondents have come forward stating that road was constructed in the year 2008-09 with full and final compensation paid to the petitioner in the year 2011 for the portion of the land acquired at which point of time the petitioner is said to have made no such agitation of his claim with his 100 kanals of land having come to suffer damage in connection with the road construction.

11. The institution of the writ petition in the year 2017 by the petitioner is being assailed as afflicted with delay and laches.

12. The answering respondents have vehemently put forth an objection that the writ petition in terms of its assertions and averments raises disputed questions of fact which are beyond the domain of this Court's jurisdiction under article 226 of the Constitution of India to settle.

13. In the backdrop of the aforesaid facts and circumstances obtaining in the writ petition, this Court is in agreement with the objections of the answering respondents that the institution of the writ petition is suffering delay and

laches not explained at all by the petitioner except ritual-like averments more particularly even without averring that in case the damage had so taken place vis-à-vis the land of the petitioner, then why the petitioner at the very first instance did not come approaching this Court with a writ petition as a timely instituted writ petition would have given a safe reference point for this Court to get the grievance of the petitioner examined with a direction unto the writ-respondents to consider and pass a reasoned order which would have been facilitating the cause of the petitioner, if genuine.

14. The very fact that with respect to an un-defined, un-explained and un-specified damage to 100 kanals stretch of land of the petitioner, the petitioner is expecting this Court to exercise its writ jurisdiction even without himself quantifying the damages is a pointer to the fact that the claim of the petitioner is actually misconceived and frivolous, which cannot admit of any adjudication by this Court in exercise of its writ jurisdiction under article 226 of the Constitution of India, as such, the present petition is ***dismissed***.

(RAHUL BHARTI)
JUDGE

JAMMU
23.12.2025
Bunty

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No