

20
Regular

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 1137/2025

In LPA No. 41/2025

Union Territory of J&K & Ors

..... Appellant (s)

Through: Mr. A R Malik, Sr. AAG
with Mr. Younis Hafiz, Adv.

V/s

Laldin Chichihi and Ors.

..... Respondent(s)

Through: Mr. Numan Zargar, Adv.

Coram:

Hon'ble Mr. Justice Rajnesh Oswal, Judge.

Hon'ble Mr. Justice Mohd Yousuf Wani, Judge

ORDER

15.04.2025

1. CM No. 1137/2025:

2. For the reasons stated in the application, the same is allowed and the delay in filing the appeal is condoned.

3. CM disposed of.

4. LPA No. 41/2025:

5. This intra Court appeal is directed against the order dated 08.08.2024 whereby the learned writ Court by observing that the disputed questions of fact have been raised by the respondents, has disposed of the writ petition with the following directions:

- a) That the Deputy Commissioner, Bandipora shall constitute a team of Revenue Officers headed by Tehsildar concerned to demarcate the actual land utilized in construction of Onagam-Khayar road constructed by the Department of R&B in the year 2018..
- b) The Committee shall find out as to whether any proprietary land of the petitioners is utilized in the construction of aforesaid land. The Committee shall also find out the share of the petitioners in the Shamilat deh Section-5 land utilized in the construction of the said road by working out their share on pro rata basis.
- c) That in case it is reported by the Committee of Revenue Officers that the proprietary land and share of the petitioners in the Shamilat land has been utilized for the construction of Onagam Khayar road, the matter shall be intimated to the R&B Department for placing requisite indent along with funds so that the process for acquisition is taken by the Collector Land Acquisition concerned.
- d) It would be appreciated, if the Deputy Commissioner, Bandipora, makes an effort to settle the matter by private negotiations instead of resorting to the procedure laid down in the J&K Land Acquisition Act. Let R&B Department,

on being intimated by the Deputy Commissioner, Bandipora, in the manner aforesaid, place requisite indent as also make the funds available for formal acquisition of the said land so that the compensation, as may be determined by the Deputy Commissioner/Collector land acquisition, may be disbursed to the rightful owners/claimants.

e) Let the entire exercise be completed by the respondents within a period of six weeks from the date copy of this order is served upon them.

6. Mr. A R Malik, learned Sr. AAG has raised only one issue for assailing the order passed by the learned writ Court that the plea of the appellants that the land was voluntarily donated by the villagers free of costs, has not been taken into consideration by the learned writ Court.

7. In a specific query by this Court as to whether there is any documentary evidence in possession of the appellants demonstrating the donation of the land to the appellants, Mr. A R Malik, learned Sr. AAG very fairly submits that there is no such documentary evidence in possession of the appellants except

communication addressed by the Sarpanch Halqa Panchayat Onigam B Bandipora to Executive Engineer, R& B.

8. After having heard Mr. A R Malik, learned Sr. AAG and Mr. Numan Zargar, Advocate and after perusing the record more particularly communication relied upon by Mr. A R Malik, learned Sr. AAG, we are of the considered view that any communication addressed by the Sarpanch is not binding on the owners of the land. Therefore, we do not find any reason to show indulgence. This appeal is misconceived and is accordingly dismissed.

(Mohd Yousuf Wani)
Judge

(Rajnish Oswal)
Judge

SRINAGAR

15.04.2025

Aasif