

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

**OWP 1014/2011
IA(1/2013[1238/2013])**

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| <p>01. Gh. Nabi Mir (Aged about 80 yrs)
S/O Late Ahmad Mir.
R/O Village Checkpora B.K. Pora Chadoora
Budgam</p> <p>02. Ab. Rehman Mir (Aged about 35 yrs)
S/O Gh. Nabi Mir.
R/O Village Checkpora B.K. Pora Chadoora
Budgam</p> | <p>...Appellant(s)/Petitioner(s)</p> |
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Through: None

Vs.

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| <p>01. State of J&K through Commissioner
Secretary to Govt. (PDD) Power
Development Department Civil
Secretariat at Srinagar.</p> <p>02. Chief Engineer System and Operation
Wing PDD Bemina Srinagar.</p> <p>03. Collector, Land Acquisition PDD/MHPS
Bemina Srinagar.</p> <p>04. Executive Engineer, TLCD-1st Bemina
Srinagar</p> <p>05. Executive Engineer TLMD-IV Pampore.</p> <p>06. Deputy Commissioner Budgam.</p> | <p>...Respondent(s)</p> |
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Through: Mr. Faheem Shah, GA for R-1 to 5
Mr. Ilyas Nazir Laway, GA for R-6

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE.

JUDGMENT (ORAL)

1. The petitioners through the medium of the instant petition,
have sought the following reliefs:

"1. A writ in the nature of mandamus be issued in favour of the petitioner and against the respondents directing them to pay compensation to the petitioners for the land acquired about one and a half decade before on the present market rate with costs for delaying the payment and till today may be directed to pay the rent of the land as per the market rate with interest as is the law laid down by this Hon'ble Court.

2. A writ in the nature of mandamus be issued in favour of the petitioner and against the respondents directing them to deposit the compensation and rent before this Hon'ble Court to avoid further delay in the disbursement of the same.

3. Any other writ order or direction including for the costs against the respondents for delaying the payment of compensation or any other relief as this Hon'ble Court deems just and proper may be issued in favour of the petitioners and against the respondents.”

2. The petitioners, through the medium of the instant petition, have pleaded that the respondents before the year 1998 took possession of the land and started work in the same year. The land was required for Gantry (Tower support) coming under 220 KV Wagoora Shariefaabad Transmission line between Tower location No. 8D and 9D and the land measuring 01 Kanals 8.5 Marlas belonging to petitioner No. 1 and his son i.e. Petitioner No. 2 and the land measuring one Marla belonging to petitioner No. 3 [who stands already deleted from the array of petitioners in the instant petition vide Order dated 20.05.2013], which also came under the same. In the year 2001-2002, the tower was constructed over the same land and the land was demarcated as authenticated to the extent of 1 Kanal and 8.5 Marlas.
3. It has been further pleaded that the petitioners approached the respondents and they were assured that the compensation will be paid to them. Accordingly, the petitioners filed representation before the Executive Engineer in March 2010, which was forwarded to the concerned office, but nothing was done.

4. The further case of the petitioners is that the respondent No. 4, vide communication dated 17.02.2011, admitted the claim of the petitioners with regard to the acquisition of land and forwarded the same to the respondent No. 2, only to assure that whether the compensation has been paid or not. It has been further pleaded that the respondent No. 2 forwarded the same communication to respondent No. 3 (Collector), who again kept the same pending, as such, a reminder was issued and also action taken report was sought, which has not been provided till date and the matter was kept pending by throwing the petitioners from pillar to post and their claim is pending from last one and a half decade.
5. The further case of the petitioners is that the respondents in the Private Negotiation Committee meeting held on 19.11.2009 under the Deputy Commissioner concerned, have taken the decision with regard to the payment of compensation and have negotiated the rates which were not acceptable to the petitioners and were required to be enhanced. The petitioners through the medium of instant petition have pleaded that they seek the compensation at the market rate with interest and also the cost of delaying the payment and causing mental agony. It has been pleaded that in similar cases, the respondents have paid compensation on time to other land holders, but since the respondents have delayed the same in case of the

petitioners, as such, it has caused loss to the petitioners and hence the instant writ petition.

6. *Per contra*, reply stands filed on behalf of the respondents 1 to 5, in which, the respondents have taken a preliminary objection that the acquisition proceedings in public interest have already taken place way back in 1998, when as per the available records, a Gantry was laid down at village Checkpora (Budgam) while crossing the 220KV C/C Wagoora-Shariefabad Transmission Line between tower locations No. 8 and 9 involving an area of 150×150 sqfts of land. The compensation was fixed by the duly constituted Private Negotiation Committee, the outcome of which was accepted by the petitioners and the same cannot be disputed after such a huge gap.
7. Thus, the respondents have taken a preliminary objection that the instant petition is hit by inordinate delay and laches and same is liable to be dismissed. The respondents have also taken an objection that the instant petition raises disputed questions of fact, which cannot be adjudicated while exercising writ jurisdiction.
8. It is a specific stand of the respondents that after completion of the land acquisition process, within the ambit of law and rules governing the field and fulfillment of necessary codal procedures required under the Land Acquisition Act by the Collector, the rate of compensation for the land in question was fixed by the Private Negotiation Committee under the chairmanship of District Development Commissioner

Budgam @ Rs. 1.30 Lac per Kanal for village Kuthipora and Rs. 92,000 for village Checkpora. The compensation for the portion of land for village Kuthipora has since been paid to the concerned land holders by the concerned Collector at the rate fixed by the aforesaid committee. The petitioners, however, have refused to take the compensation for the land measuring 1 Kanal and 8.5 Marlas at Checkpora fixed by the Private Negotiation Committee i.e. @ Rs. 92,000/- per Kanal and on the other hand, a demand has been raised by the petitioners that they should be paid @ Rs. 1.30 Lacs per Kanal fixed by the Private Negotiation Committee for other part of the land at village Kuthipora, stating that both the lands are at the same patch of land and the compensation of which, has been paid to the concerned land owners.

9. Thus, a specific objection has been raised by the respondents 1 to 5 that it is not within the domain of the respondents to fix the rate of compensation of the land, particularly, when the same has already been done by the competent authority i.e. Private Negotiation Committee, which had fixed the rate at the relevant point of time and the issue with regard to the fixation of compensation cannot be raised after such a considerable period of time, as substantial delay is involved in the instant matter. It has also been submitted by the respondents that the rate fixed by the Private Negotiation Committee has already been accepted by the other land owners except the petitioners and in case, the relief sought by the petitioners is accepted, it

can give fresh cause of action to other similarly situated land owners and there will be unending litigation and it will open a Pandora's Box.

10. It has also been pleaded that the delay in accepting compensation is attributable to the petitioners and not to the respondents, as the petitioners have failed to accept the said compensation, which was fixed by the Private Negotiation Committee.
11. It has been brought to the notice of this Court by Mr. Faheem Nisar Shah, learned Government Advocate that during the pendency of the instant petition, the petitioners have raised the grievance that in terms of order dated 20.02.2013, they have already approached the Collector concerned , but the compensation amount was not paid to them and in light of the grievance raised by the petitioners, this Court vide order dated 06.03.2013 directed the respondents to deposit the cheque in respect of the compensation amount with the Registrar Judicial of this Court. Mr. Shah, learned Government Advocate, submits that in compliance to the aforesaid order, the requisite amount of compensation, as assessed by the competent authority has already been deposited before the Registrar Judicial, Srinagar by way of a cheque on 19.03.2013 and the same is lying with the Registry of this Court. He fairly submits that he is not aware whether the said compensation amount has been received by the petitioners or not, as the same is lying with the Registrar Judicial in terms of Court

order. Even otherwise, this Court while adjudicating the writ jurisdiction, cannot go into the question of assessment of the compensation by the Private Negotiation Committee, as that decision is not the subject matter of the instant petition. On this ground also, the petition is not maintainable.

12. Moreover, there is no representation of the petitioners before this Court, and thus inference can also be drawn that the petitioners are not interested to agitate the matter.

13. Thus, no fruitful purpose would be served by keeping this petition pending, as all the claimants have already received the compensation in terms of the amount fixed by the Private Negotiation Committee except the petitioners. The amount has already been deposited before the Registrar Judicial in accordance with the aforementioned order.

14. In view of the aforesaid discussion and keeping in view the totality of the circumstances, the instant petition is disposed of by directing the Registry to release the compensation, along with the interest accrued thereon in favour of the petitioners, subject to verification and fulfillment of all codal formalities, if the same has not already been received by the petitioners.

15. The writ petition is ***disposed*** in the manner indicated hereinabove.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

10.07.2025

"Adil Ismail"