

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

Reserved on: 20.08.2025

Pronounced on: 02.09.2025

CJ Court

WP(C) No.1726/2020

ABDUL SALAM BHAT & ORS.

...PETITIONER(S)

Through: - Mr. Shafqat Nazir, Advocate.

Vs.

GOVERNMENT OF J&K AND OTHERS

...RESPONDENT(S)

*Through: - Mr. Ilyas Nazir Laway, GA.
Ms. Afroza Bano, Collector Land Acquisition, Budgam,
present in person.*

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

JUDGMENT

OSWAL 'J'

1) Writ petition preferred by petitioner No.1 and 5 stands already withdrawn vide order dated 07.09.2022, therefore, the petitioners henceforth shall mean and include the other petitioners only.

2) The petitioners were the owners of land situated in Village Wathoora Tehsil Chadoora District Budgam. A notification under Section 4 of the J&K Land Acquisition (for short "the Act") was issued on 15.03.2017 for acquisition of land of the owners including the petitioners

for construction of Srinagar Semi Ring Road. Thereafter on 08.08.2017, vide notification No.355-Rev(LAJ) of 2017, a declaration under Section 6 of the Act was issued in respect of the land measuring 239 kanals 06 marlas and 136 Sft. situated at Wathoor, Budgam. The petitioners have mentioned the quantum of their land covered by acquisition in para (3) of the petition.

3) The grievance of the petitioners is that in terms of Section 11-B of the Act, the acquiring authority was under an obligation to complete the acquisition proceedings within a period of two years from the date of declaration issued under Section 6 of the Act and failure to do so, would result in lapse of the acquisition proceedings. It is contended by the petitioners that the acquisition proceedings in the instant case were not completed within a period of two years commencing from 8th August, 2017 till the filing of the writ petition as no award was issued by the respondents in respect of the land of the petitioners, therefore, the proceedings initiated by the official respondents for acquisition of the land of the petitioners have elapsed. The petitioners have sought the quashing of communication dated 13.08.2020 addressed by respondent No.2 to respondent No.3 with regard to adoption of the rates of different villages in District

Budgam for the land acquired for construction of Semi Ring Road around Srinagar city. The petitioners have also sought issuance of direction for commanding the respondents not to continue with the proceedings of land acquisition initiated in terms of notification under Section 4 of the Act and further the respondents be directed to initiate fresh acquisition proceedings in case the land of the petitioners is required for any public purpose including the construction of Srinagar Semi Ring Road and such proceedings be initiated under the Central Land Acquisition Law (RFTLARR Act 2013).

4) The respondents came up with the response by submitting that notification under Section 4 of the Act was issued on 15.03.2017 in respect of land measuring 239 kanals, 06 marlas and 136 sft. situated at Wathoora Budgam. as the land was required for public purpose for construction of Semi Reing Road around Srinagar City. Thereafter, a declaration under Section 6 of the Act was issued on 08.08.2017. Subsequently, notification dated 26.08.2017 under Section 9 and 9A of the Act for the land mentioned above were issued inviting persons interested in the said land and the indenting department to appear personally or through authorized agent to state the nature of their respective interests in the land and the amount

and particulars of their claims for compensation and their objections, if any. Notification under reference dated 26.08.2017 was given wide publicity through print media by Joint Director, Information, Kashmir. In response to the said notification, none came forward to file objections within the specified period. Thereafter, the Government issued notification under Section 17 of the Act dated 14.02.2018 for taking over possession of the land in question for public purpose. Thereafter, the final award was issued on 11.08.2020.

5) It needs to be mentioned that earlier vide order dated 07.09.2022, the writ petition was allowed on the premise that the respondents had not resorted to the urgency provisions under section 17 of the Act but subsequently, pursuant to order dated 30.07.2025 passed in a review petition preferred by the respondents, order dated 07.09.2022 was recalled on the ground that while passing the said order, notification dated 14.02.2018 was not taken note of. The learned counsel for the petitioners had fairly admitted that the order under review warranted its recall. This is how this petition has come up before this Court for consideration.

6) Learned counsel for the petitioners has submitted that the official respondents might have issued notification

dated 14.02.2018 under Section 17 of the Act, but they have not complied with the provisions contained in Section 17A of the Act i.e. they had not offered 80% of the compensation to the petitioners and, as such, Section 11-B of the Act shall come into operation, particularly when the award was issued after more than two years of the issuance of declaration under Section 6 of the Act. He has further submitted that in case of other land owners of the same village, a Coordinate Bench of this Court had quashed the award in the case titled **Gulzar Ahmad Akhoun & Ors. vs. UT of J&K & Ors.**, 2023 (1) JKJ 68[HC] and the judgment was assailed by the respondents before the Hon'ble Supreme Court of India but without success.

7) *Per contra*, Mr. Ilyas Laway, learned GA, has submitted that the award has been passed in accordance with law and urgency provisions were invoked by the respondents, therefore, Section 11-B of the Act shall not come into operation.

8) Heard and perused the record.

9) Pursuant to a specific quarry made by this Court as to whether the provisions contained in Section 17-A of the Act in respect of tendering of 80% compensation to the

persons interested and entitled thereto were complied with or not, the learned counsel for the respondents could not produce any record in that regard but laid a stress that the owners had refused to accept the compensation. In fact, the respondents have, in their response, nowhere pleaded that the mandate of Section 17-A of the Act was followed by them.

10) In case titled **Gulzar Ahmad Akhoon and others** (supra), the Coordinate Bench of this Court has observed that from the record we could not come to a definite conclusion as to whether this land compensation offered to one land loser of the village was 80% of the estimated compensation worked out by the Collector and in view of the incomplete record provided by the Collector concerned, it was held by the Coordinate Bench that there was no strict compliance of Section 17-A of the Act. Thereafter the Coordinate Bench proceeded to quash award dated 11th August, 2020 issued in respect of the land of the same village qua the petitioners therein.

11) We have also perused the record and from perusal thereof, we have not come across any document that the mandate of section 17-A of the Act was followed by the respondents.

12) As the award is same and the position in respect of non-compliance of Section 17-A of the Act, so far as the petitioners herein are concerned, is also same vis-à-vis the case of **Gulzar Ahmad Akhoon & others** (supra), we deem it proper to dispose of this writ petition in terms of the same directions issued by the co-ordinate Bench, which are extracted as under:

(a) The final award dated 11th August, 2020, insofar as it pertains to the petitioners is set aside.

(b) The Collector Land Acquisition, Budgam shall pass fresh award qua the petitioners only and for that purpose shall construe 11th August, 2020 (date of final award) as the relevant date for determination of market value but shall apply the yardsticks for assessment of compensation provided under the 1990 Act in respect of acquired land of the petitioners only. The Collector shall calculate other statutory benefits on such amounts including interest to be calculated and determined by taking into consideration the date of taking over possession i.e. 13th March, 2018.

(c) The date on which fresh award is passed in favour of the petitioners pursuant to this judgment and intimated to the petitioners shall be the date of cause of action for seeking enhancement of compensation under the 1990 Act, if the petitioners or any of them is dissatisfied with the quantum of compensation offered.

(d) While making payment of compensation assessed in terms of this judgment, the amount of compensation, if any, received by the petitioners shall be taken into account.

(e) That the compensation determined in favour of the petitioners pursuant to this judgment shall not give cause of action to any other land loser, whose land is acquired under the same notification to seek re-determination of the compensation.

13) The record be returned to the learned counsel for the respondents.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Srinagar
02.09.2025
“Bhat Altaf”

Whether the **Judgment** is speaking:
Whether the **judgment** is reportable:

Yes
No

