

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

CCP(S) 356/2023 in [OWP 960/2012]

GHULAM MOHI UD DIN KALS

...Appellant(s)/Petitioner(s)

Through: Mr. Imtiyaz Ahmad Sofi, Advocate

Vs.

S. S. BALI (REVENUE DEPARTMENT)

...Respondent(s)

Through: Mr. Faheem Nisar Shah, GA

CORAM:

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

ORDER

08.07.2025

1. The instant contempt petition arises out of the Order dated 26.05.2014, passed in OWP 960/2012 by virtue of which, the writ petition preferred by the petitioner was disposed of with the direction to the respondents 1 and 2 to accord due consideration to the release of compensation, whatever assessed by the competent authority, in connection with felling/pruning of the walnut trees on account of laying High Tension electricity line and disburse it to the persons held entitled in terms of the award within four weeks from the date of receipt of the aforesaid order.

2. Since the Order dated 26.05.2014 was not complied with, within the stipulated time granted by the Court, the instant contempt petition has been preferred, in which the learned counsel for the respondent assured this Court on 04.10.2023 that the direction passed by this Court on 26.05.2014 followed by the order dated 14.07.2022 will be implemented in its letter and spirit within a period of four weeks from the passing of the said order.

3. In light of the assurance extended by the learned counsel for respondent, the proceedings in the contempt petition were closed with liberty given to the petitioner that, in case the order is not complied with, within the stipulated period, then the petitioner can seek revival of the contempt petition and, in that eventuality, this Court will be constrained to take coercive measures against the respondent.

4. In spite of the assurance extended by the learned counsel, the order was not implemented in its letter and spirit and the petitioner was constrained to revive the instant contempt petition, in which the detailed statement of facts has been filed on behalf of the respondent Collector. The Collector, through the medium of the detailed compliance report has given the detailed reasons as to why the order passed by this Court has not been complied with, in spite of the fact that the order which is sought to be complied with, pertains to the year 2014. This Court deems it proper to take note of the stand taken by the respondent in Para 3 to 8 of the statement of facts filed, which for facility of reference is reproduced as under:

3. It is submitted that the petitioner has approached this Hon'ble court for releasing of compensation in lieu of felling/pruning of his walnut trees existing in land bearing Khasra No 824/353 situated at Gojar Pati Ouza Preng Kangan acquired by the respondent on account of laying Transmission Line.

4. It is submitted that official respondent already appraised the Hon'ble court in Statement of Facts as well as in compliance report filed in contempt petition No 132/2015 in the said case that after receiving the Hon'ble Court Judgment dt 26.05.2014, the official respondents implemented the

Hon'ble Court order and the parties were called upon, but the petitioner failed to attend the office of the answering respondent. However, the assessment of walnut trees has been made by the Horticulture Department in favour of one namely Fazal-ul Rahman s/o Khan Gull R/o Gutlibagh, Ganderbal (at that time the land/fruit bearing walnut trees are in guardianship of said person and assessment was made in his favour) but due to the controversy for title of rightful owner/claimant, the answering respondent is unable to make payment of compensation within the stipulated time as directed by this Hon'ble court by virtue of order dated 26.05.2014.

5. It is submitted that as per the official records available with the answering respondents, the petitioner has executed an agreement on 15-11-1981 with one namely Fazal-u-Rehman S/O Khan Gull R/O Gutlibagh for survey No. 824/353 with the conditions to pay Rs. 5000/- annually to the petitioner for walnut trees in question lifelong of the petitioner.

6. In compliance to Hon'ble Court directions dated 26.05.2014, both parties were called upon by the answering respondent, but the petitioner refused to accept the compensation & on next opportunity failed to attend the office of the respondent/Collector. More so, the assessment of walnut trees in question has been made by the Competent authority (Horticulture Department) in favour of One namely Fazal-u-Rehman S/O Khan Gull R/O Gutlibagh Ganderbal, but due to Controversy of the title of the rightful Owner/Claimant, the respondent is unable to make payment of compensation within the stipulated time as directed by this Hon'ble Court.

7. It is submitted that due to controversy between the petitioner and One namely Fazal-u-Rehman S/O Khan Gull who is at present holding the possession of Land in question & the assessment is also in favour of Fazal-u-Rehman, the

respondent is unable to make payment of compensation to the rightful Land owner.

8. It is submitted that the answering respondents time to time issued several Notices to the petitioner as well as the claimant Fazal-ul Rahman s/o Khan Gull R/o Gutilbagh, Ganderbal to produce the requisite documents viz Revenue Papers, Agreement copy, Assessment copy, cut certificate/permission for release of compensation amount but the petitioner as well as claimant has not submitted the requisite documents as was directed to them till date as a result of which the answering respondent is not in a position to examine the case of the petitioner and make compensation payments in terms of judgement dated 26.05.2014. Hence the delay caused in considering the case of the petitioner in no way can be attributed to the answering respondent.

5. Heard learned counsel for the parties in the instant contempt petition and perused the record.

6. From a bare perusal of the stand taken by the respondent in the compliance report, it has come to fore that due to the controversy between the petitioner and one person, namely, Fazal-ul Rehman, who at the time of filing the instant compliance report, was holding the possession of the land in question, and the assessment was made in favour of Fazal-ul-Rehman and, accordingly, the respondent could not make the payment of compensation to the rightful land owner. It has also come to fore that, whatever was required on part of the respondent, has already been done in furtherance of the direction passed by this Court, as several notices to the petitioner as well as to the claimant namely Fazal-ul-Rehman have been issued to produce the requisite documents viz revenue papers, agreement copy, assessment copy and cut certificate/permission for the release of

compensation amount, but in light of the stand taken by the respondent, the petitioner and the said claimant has not submitted the requisite documents, as directed by the respondent with the result, the order passed by this Court could not be complied with and the payment by way of compensation in conformity with the order could not be released.

7. At this stage, Mr. Sofi, learned counsel for the petitioner fairly submits that, since he has been called upon to produce the cut certificate/permission of the trees, which were cut by the Electricity Department, he is unable to produce the said certificate and this is the precise reason that he could not comply the direction issued by the respondent.

8. Confronted with the same, Mr. Faheem Nisar Shah, learned Government Advocate submits that the respondent will not insist upon the production of the cut certificate by the petitioner, as it will not be in his domain to produce the same.

9. In the aforesaid backdrop, this Court in the peculiar facts and circumstances of the case, deems it proper to direct the petitioner to appear before the respondent within one week from today i.e., before Collector Land Acquisition, Power Development Department, Bemina, Srinagar, on 18.07.2025, with a view to produce all the requisite documents as required under law on the said date. The respondent Collector is also directed to issue notice to the other claimant (Mr. Fazal-ul Rehman) to appear and produce the documents on the said date, so that the issue is resolved and the direction passed by this Court is brought to its logical conclusion.

10. It is further made clear that subject to production of the requisite documents by the petitioner and Mr. Fazlul Rehman as envisaged under law, the Collector shall take a final decision in conformity with the direction passed by this Court mentioned supra within one week thereafter. The decision which is likely to be taken shall be forwarded to the petitioner and Mr. Fazlul Rehman through registered post against proper receipt.

11. In the aforesaid backdrop, no fruitful purpose would be served in keeping this contempt petition alive and, accordingly, the proceedings in the instant contempt petition are closed.

12. Rule, if any framed, shall stand discharged.

13. However, it is made clear, at the cost of repetition, that in case the direction mentioned hereinabove is not complied with in its letter and spirit within the aforesaid period, then the petitioner will be at liberty to seek revival of the instant contempt petition and in that eventuality, this Court will be constrained to initiate coercive measures against the respondents.

14. Contempt petition is **closed** in the manner as indicated above.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

08.07.2025

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