

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

**WP(C) No. 2473/2025 c/w
CCP(S) No. 340/2025**

1. Altaf Hussain Shawl
2. Mohammad Shafi Shawl
Sons of Ghulam Mohammad Shawl
3. Mokhammad Younus
Legal heir of Late Abdul Rehman Shawl.
4. Ishtiyah Ahmad
5. Mariya
Legal heirs of late Gh. Hassan Shawl.
6. Fayaz Ahmad
7. Zahoor Ahmad
8. Feroze Ahmad
9. Rouf Nabi
10. Jawahira

...Petitioner(s)

Through: Mr. J. H. Reshi, Advocate

Vs.

1. UT of JK through Commissioner/ Secretary,
Government of JK, Department of Tourism,
Civil Secretariat and ors.
2. Deputy Commissioner, Ganderbal.
3. SSP Ganderbal
4. SDM Ganderbal/ Collector Land Acquisition
Act, Ganderbal.
5. Executive Engineer R&B Division Kangan,
Ganderbal.
6. Tehsildar Kangan, District Ganderbal.

...Respondent(s)

Through: Mr. Mohsin Qadir, Sr. AAG, with Ms. Maha Majid, AC
Mr. Furqan Yaqub Sofi, Government Advocate

CORAM:

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

ORDER
16.12.2025

Oral:

01. The petitioners, through the medium of instant petition,
have sought the following relief:

“i. Writ of mandamus directing the respondents not to raise any sort of construction including so to say construction of a Children Play park on the aforesaid land of the petitioners measuring 37 K 9M situated at Sonamarg. Tehsil Kangan, District Ganderbal without first acquiring it in accordance with the provisions of the Fair Compensation And Transparency in the land Acquisition, Rehabilitation and Resettlement, Act, 2013.”

02. It is pleaded in the petition by the petitioners that in the year 2005, Sonamarg Development Authority (SDA) started causing undue interference with the land measuring 37 Kanals 9 Marlas comprising of Khasra Nos. 159,161 and 164 (Khewat No. 37 & 66) situated on Srinagar-Leh National Highway at Tehsil Kangan District Ganderbal, belonging to them without any right, jurisdiction or authority of law which constrained the petitioners to file a civil suit before the court of Principal District Judge, Srinagar and accordingly the said suit came to be transferred to the court of Sub Judge, (Chief Judicial Magistrate), Srinagar for its disposal under law. Subsequently, the court of Chief Judicial Magistrate passed an ex-parte judgment and decree dated 20th August, 2007 in favour of the plaintiffs therein and petitioners herein. A copy of aforesaid judgment and decree has been placed on record as Annexure-II with the instant petition.

03. The further case of the petitioners is that in terms of the aforesaid judgment and decree, they have been declared as owners in possession of aforesaid land and the defendants therein/respondents herein were restrained to dispossess the plaintiffs/petitioners from the land in question in any manner whatsoever except in due course of law i.e., by way of acquisition if needed for any public purpose and pay them adequate compensation in lieu thereof as admissible under rules. It is pleaded by the petitioners in the instant writ petition that after visiting the aforesaid land they were surprised to notice that respondents have started construction of Children's Park over the land belonging to them, that too without first acquiring it under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is further pleaded that the petitioners have come to know that the respondent no. 5, i.e., Executive Engineer R&B Division Kangan has issued a Tender Notice by way of an e-tendering process bearing NIT No. EE/R&B/Div/KGN/20 of 2025-26/3618-23 dated 29th August, 2025, whereunder tenders were invited for the construction of aforesaid Children's park, without any right or authority of law.

04. Learned counsel for the petitioners submits that since the action on the part of respondents is patently illegal and without there being any right or authority of law, they have

started raising construction of Children's Park over the land which is subject matter in the instant petition. The petitioners feeling aggrieved of the same have come forward with institution of instant petition.

05. *Per contra*, reply stands filed on behalf of respondent no. 2 [Deputy Commissioner, Ganderbal], in which it is specifically pleaded that the reports furnished by the Tehsildar Gund, Sub Divisional Magistrate, Kangan and Chief Executive Officer, SDA reveal that the matter has been verified on spot through a team of Revenue officials along with representatives of SDA and necessary demarcation of the land, where the SDA is raising a Children's Park, has been carried out on spot. As per the stand taken by the respondent no. 2 in his reply, it has come to fore that the Children's Park is being raised under Khasra No. 160 of estate Sonamarg Tehsil Gund which is recorded as "Sri Sarkar" and claimed to be in the possession of Government. In the aforesaid report, it has also been reflected that the land measuring 12 Marlas (proprietary land) under Khasra No. 162-min of estate Sonamarg was recorded in the name of Mehar Dedi W/O Assadullah Shawl R/O Saraf Kadal Srinagar (which is not the subject matter) is located adjacent to Khasra No. 160- Sri Sarkar and the said 12 Marlas of land under Khasra No. 162- min is lying vacant on spot. Accordingly, it is submitted in the reply that no interference is being caused by the respondents in respect of

land in question claimed by the petitioners under Khasra Nos'. 159, 161-min and 164 min of estate Sonamarg Tehsil Gund as these Khasra numbers fall outside the dimensions of said Park, and thus, the contention of learned counsel for the petitioners that the respondents have constructed the Children's Park over the land comprised under Khasra Nos' 159,161-min and 164 min belonging to the petitioners is false, frivolous and same is denied in view of the contemporaneous official record.

06. The respondents, with a view to clarify their stand have submitted on oath that the construction of Children's Park is being carried out under Khasra No. 160 of estate Sonamarg Tehsil Gund which is recorded as "Sri Sarkar" and is in the possession of Sarkar and no land in question comprised under Khasra Nos' 159,161-min and 164 min belonging to the petitioners has been utilized for construction of Children's Park by the Sonamarg Development Authority.

07. Heard learned counsel for the parties at length and perused the material on record.

08. Since the petitioners have admitted in the instant petition that they have filed a civil suit on the same subject matter against the respondents, in which, they have also got an ex-parte judgment and decree which has been placed on record as Annexure-II with the instant petition and had the

respondents encroached upon the land of the petitioners, they would have definitely sought the implementation of the judgment and decree passed by the learned trial court. The petitioners, instead of approaching appropriate forum, have straightway come to this Court by way of filing the instant petition that too without there being any fresh cause of action under law, as such, on this count alone, the instant petition is devoid of any merit and is liable to be dismissed.

09. However, the contention of the petitioners that the respondents have encroached upon their land, has been denied by the official respondents while filing the reply, in which, the respondents have taken a specific stand that the construction of Children's Park has been raised on Khasra No. 160 of estate Sonamarg Tehsil Gund which is recorded as "Sri Sarkar" and is in possession of Sarkar and no land in question comprised under Khasra Nos' No. 159,161-min and 164 min belonging to the petitioners has been utilized for construction of Children's Park by the Sonamarg Development Authority. On this ground also, the instant writ petition is not tenable and is liable to be dismissed.

09. In the light of the stand taken by the respondents as no fresh cause of action tilts in favour of the petitioners to file the instant petition before this Court, the same is **dismissed** as the remedy available under law was elsewhere. However, dismissal of the instant petition shall

not come in the way of petitioners to agitate their cause before the appropriate authority in case any fresh cause of action is accrued to them under law.

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In view of the dismissal of writ petition, there remains nothing further in the instant contempt petition to be adjudicated upon and, accordingly, the proceedings in the contempt petition are **closed**.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:

16.12.2025

"Shamim Dar"