

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Date of pronouncement: 14.08.2026

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WP(C) No. 367/2025

Bodh Raj Thakur and others

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

Through: Mr. Gagan Deep Sharma, Advocate

vs

UT of J&K and others

..... Respondent(s)

Through: Ms. Nazia Fazal, Advocate vice
Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
14.08.2026

1. Heard learned counsel for the parties.
2. Through the medium of the present writ petition, the petitioners seek, *inter alia*, issuance of a writ of mandamus commanding the respondents to pay compensation in respect of land measuring 09 Kanals and 07 Marlas (approximately), falling under Khasra No. 410/328/1 min, situated at Village Challri (Challer), Tehsil Chilly Pingal, District Doda, stated to have been taken over and utilized by the respondents for construction of the Challri to Drought Road in Village Challer. The petitioners have also claimed interest at the rate of 6% per annum from the date the respondents took possession of the aforesaid land and, further, interest at the rate of 10% per annum on the awarded compensation in terms of Section 35 of the Land Acquisition Act till actual disbursement thereof.

3. The respondents, in their objections, have admitted that the land in question was subjected to acquisition proceedings pursuant to a notification issued under **Section 4(1) of the Jammu and Kashmir Land Acquisition Act** on **30.12.2015**. Thereafter, declaration under **Sections 6 and 7** of the Act was issued and a tentative award was also drawn by the Collector Land Acquisition, Gandoh, on 22.12.2018.

4. The specific stand of the respondents, however, is that owing to non-availability of requisite funds, the acquisition proceedings could not be taken to their logical conclusion and the declaration issued under Sections 6 and 7 of the Act consequently lapsed. It is not disputed that the land of the petitioners was sought to be acquired for construction of the Challri to Drought Road. On the basis of the aforesaid stand, the respondents have sought dismissal of the writ petition. In support of their case, the respondents have also placed on record communication dated 24.06.2024, addressed by the Collector Land Acquisition/SDM, Gandoh, to the Executive Engineer, PWD (R&B), Gandoh.

5. In the aforesaid factual backdrop, learned counsel for the petitioners submits that since no final award was made within the period prescribed under Section 11-B of the Jammu and Kashmir Land Acquisition Act, the entire acquisition proceedings stood lapsed by operation of law. It is, accordingly, contended that the land must be restored to the petitioners or, in the alternative, if the respondents still require the land for a public purpose, they be directed to initiate fresh acquisition proceedings in accordance with the law presently governing acquisition of land.

6. During the course of hearing, learned counsel for the petitioner's placed reliance upon the judgments rendered by Coordinate Benches of this

Court, including the judgment reported as **2025 Legal Eagle (J&K HC) 792** and the judgment rendered in **WP(C) No. 2236/2024**. On the strength of the aforesaid judgments, it is submitted that where an award is not made within two years from the date of publication of the declaration under Sections 6 and 7 of the Act, the acquisition proceedings lapse in terms of Section 11-B. Learned counsel further submits that the respondents themselves have admitted in their objections that the requisite funds were not made available to the Collector Land Acquisition and, consequently, the acquisition proceedings could not be completed within the statutory period.

7. In “Abdul Gani and another v. Union Territory of J&K and others” supra the declaration under Sections 6 and 7 of the Act had been issued on **23.02.2017**, but no final award was made within two years thereafter. The acquisition proceedings in that case were neither under challenge during the relevant period nor were they interdicted by any order of stay. In those circumstances, the Court held that once the statutory period of two years from the date of publication of the declaration expired without an award being made, the acquisition proceedings stood lapsed by operation of Section 11-B of the Act.

8. Likewise, in “**Hamid Ullah Wani and others v. Union Territory of J&K and others**”, this Court considered the scope and effect of Section 11-B of the Act and observed that, in the absence of invocation of the urgency provisions under Section 17 and payment of 80% of the compensation contemplated thereunder, failure to make the award within the prescribed period of two years would result in lapse of the acquisition proceedings. In the facts of that case, the Court proceeded to set aside the award and issued appropriate directions to the

Collector Land Acquisition for undertaking the exercise afresh in accordance with law.

9. Reverting to the facts of the present case, the acquisition proceedings commenced with issuance of the notification under Section 4(1) of the Act on 30.12.2015, followed by declaration under Sections 6 and 7 on 28.02.2018. Consequently, in terms of Section 11-B of the Act, the award was required to be made within the statutory period of two years from the date of publication of the said declaration, subject, of course, to any period liable to be excluded in accordance with law. In the present case, although a tentative award was prepared, the material on record demonstrates that the intending department failed to make available the requisite compensation amount despite repeated communications addressed by the Collector Land Acquisition. Consequently, no final award could be made within the period prescribed under Section 11-B of the Act. The respondents have, in fact, substantially admitted this position in their objections.

10. In view of the aforesaid admitted factual position and the legal principles noticed hereinabove, this Court is of the considered view that the acquisition proceedings initiated in respect of the petitioners' land could not survive beyond the statutory period prescribed under Section 11-B of the Act. The mere preparation of a tentative award did not amount to making of an award within the contemplation of the statute, particularly when the same could not be finalized on account of failure of the intending department to place the requisite funds at the disposal of the Collector Land Acquisition.

11. The petitioners have, in the writ petition, primarily sought payment of compensation on the basis of the tentative award. Once it is held that the acquisition proceedings themselves stood lapsed by operation of Section 11-B of

the Act, the tentative award cannot be treated as an enforceable award conferring upon the petitioners a vested right to claim compensation strictly in terms thereof. A tentative award, unless finalized in accordance with law within the statutory period, does not acquire the character or legal efficacy of a final award.

12. Nevertheless, the Court, while exercising its writ jurisdiction, is not precluded from moulding the relief so as to accord with the legal rights of the parties as emerging from the admitted facts. Since no final award was made within two years from the declaration issued under Sections 6 and 7 of the Act and the acquisition proceedings could not be completed owing, inter alia, to the failure of the intending department to deposit the requisite compensation amount, the inevitable consequence under Section 11-B is that the acquisition proceedings have lapsed.

13. Accordingly, the writ petition is allowed and the acquisition proceedings pertaining to the land of the petitioners measuring 09 Kanals and 07 Marlas (approximately), falling under Khasra No. 410/328/1 min, situated at Village Challri (Challer), Tehsil Chilly Pingal, District Doda, are declared to have lapsed on account of failure to make the award within the statutory period prescribed under Section 11-B of the Jammu and Kashmir Land Acquisition Act. Consequently, the acquisition proceedings, including all consequential proceedings founded thereon, shall stand quashed.

14. As a necessary consequence, the land in question shall stand restored to the petitioners, subject to any lawful rights or liabilities otherwise subsisting in respect thereof. However, if the respondents still require the land of the petitioners for the aforesaid road or for any other public purpose, it shall be open to them to acquire the same afresh, but only by following the procedure prescribed under the

law applicable at the relevant time and upon payment of compensation determined thereunder.

15. It is further directed that if, during the course of the acquisition proceedings or while utilizing/occupying the land, the respondents have caused any damage to the petitioners' land or have otherwise affected any improvements existing thereon, the competent authority shall assess the compensation, if any, payable on that account and ensure payment thereof to the petitioners in accordance with law.

16. The writ petition is, accordingly, ***disposed of*** in the above terms, along with all connected application(s), if any.

(Sanjay Parihar)
Judge

Jammu
14.08.2026
Rahul Sharma

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No