

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

OWP No. 1137/2011

Date of Order: 10.02.2026
Uploaded on 16.02.2026

01. **Faqir Sain (Dead)** S/O Ghulam Nabi Dar

Substituted by his LRs:-

(i) Mst. Gulzar Begum
W/O Late Faqir Sain
R/O Ward No. 1, Batote
Tehsil Batote, District Ramban.

(ii) Mohd Tariq
S/O Late Faqir Sain
R/O Ward No. 1, Batote
Tehsil Batote, District Ramban.

(iii) Mohd Rafiq
S/O Late Faqir Sain
R/O Ward No. 1, Batote
Tehsil Batote, District Ramban.

(iv) Mst. Saydhia
W/O Farooq Ahmed
D/O Late Faqir Sain
R/O Ward No. 7, Ramban,
District Ramban.

(v) Mst. Shamim Begum
D/O Late Faqir Sain
W/O Ayar Hussain
R/O Ward No. 3. Batote,
Tehsil Batote District Ramban.

02. **Ashiq Hussain.**

03. **Abdul Wahid.**

04. **Talib Hussain**
All sons of Late Ghulam Nabi Dar,
R/O Batote Tehsil & District Ramban.

05. **Mst. Mahatabu Begum.**
W/O Late Ghulam Nabi Dar,

R/O Batote Tehsil & District Ramban.

06. **Iftikar Ahmed.**

07. **Tasif Hussain.**

08. **Mohd. Arif**

All sons of Late Ghulam Hussain,
R/O Batote Tehsil & District Ramban.

09. **Ghulam Fatima.**

W/O Late Ghulam Hussain,
R/O Batote Tehsil & District Ramban.

10. **Mst. Saleema Begum**

W/O late Abdul Rashid,
R/O Batote Tehsil & District Ramban.

11. **Zaida Begum.**

12. **Nusrat Banu.**

Daughters of late Abdul Rashid,
R/O Batote Tehsil & District Ramban.

13. **Abdul Hanief (Dead)** S/O Ali Mohd.

R/O Batote, Tehsil & District, Ramban.
Substituted by his LR:-

(i) Mumtaz Begum

W/O Late Abdul Hanief
R/O Ward No. 1 Batote,
Tehsil & District Ramban.

(ii) Mohd. Qadder

W/O Late Abdul Hanief
R/O Ward No. 1 Batote,
Tehsil & District Ramban

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

Through: Mr. B.S. Bali, Advocate.

Vs

01. Union of India through its Secretary
Ministry of Surface Transport,
New Delhi.

02. Director General Border Road

Organization Seema Sadak Bhawan,
Ring Road, Delhi Cantt. 110010.

03. Officer Commanding, 52, Road
Construction Company, (GREF) HQ-
Batote (J&K).
04. Commander HQ-35 BRTF(GREF)
C/O 56 APO
05. Deputy Commissioner (Collector),
Ramban, District Ramban (J&K)
06. Executive Engineer, PWD Division
Ramban, District Ramban.

..... Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Sumant Sudan, Adv. for R-1 to 4
Ms. Nazia Fazal, AC vice
Mrs. Monika Kohli, Sr. AAG for R-5
Ms. Pallavi Sharma, AC vice
Mr. Ravinder Gupta, AAG for R-6.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
(10.02.2026)

01. Petitioners, through the medium of this petition, alleging that their proprietary land measuring 07 kanals 11 marlas comprising of Khasra No. 749, situated on National Highway at Batote, Tehsil and District Ramban has been occupied by respondent Nos. 1 to 4 and prayed that the respondents be directed to calculate and pay the compensation of the said land, or in the alternative, that respondent Nos. 1 to 4 be directed to execute a lease deed/agreement in respect of the said land and pay monthly rent to the petitioners as per the market value from the date, the land in question has been occupied by said respondent Nos. 1 to 4.

02. Petitioners claim that they are joint owners of the land in question which has been occupied by respondent Nos. 1 to 4 for raising some structures, that the land in question was initially occupied by J&K State Public Works Department without paying any compensation and later it was transferred by them to GREF in the year 1965, which is reflected in the Khasra Girdawaris pertaining to the years 2001 and 2002 to 2006.
03. Respondent No. 1 to 4 have filed a supplementary affidavit, wherein it has been stated and admitted that the land measuring 07 kanal 11 Marlas falling under Khasra No. 749 was handed over to them by the State-PWD in the year 1965, and since then they are in the possession of said land.
04. Objections have been filed by the official respondents through Tehsildar Batote, stating that, as per the revenue record for the year 2015, the land in question was found in the ownership of Faqir Sain and others, and after the death of Faqir Sain, an inheritance mutation was attested in the name of Mohd Tariq and others. It is further stated that the land has been recorded in the possession of Public Works Department through GREF, in revenue records prior to settlement to till date. Copy of Jamabandie for the year 2015-16 was enclosed in support of the objections.
05. This Court vide order dated 13.08.2025, after consideration of the matter, directed that the controversy be resolved by directing the Deputy Commissioner, Ramban, to constitute a team of revenue officers and get the land measuring 07 kanals 11 marlas in Khasra No. 749 situated at Batote, demarcated, in the presence of representatives of

petitioners and respondent Nos. 1 to 4, and to submit a report in this behalf.

06. The Deputy Commissioner, Ramban, pursuant to the direction, has filed the compliance report stating that committee comprised of ACR, Ramban, Tehsildar Rajgarh, Naib Tehsildar Sanasar, Naib Tehsildar Gandhri, GQ Chakwah, & Patwari Halqa Sanasar of Tehsil Batote was constituted which filed a demarcation report by concluding that Survey No. 749, constitutes private property as proprietary land of Mohd Tariq and others, however, land measuring 07K-11M has been under the physical occupation of 52 RCC GREF indicating the entries of the Public Works Department through GREF in the Girdawari /cultivation column. The joint demarcation report along with copy of correct Khasra Girdawai, copy of current Jamabandi & AKas of the current Massavi was also annexed. This exercise has been conducted in the presence of the petitioners and the representatives of the respondents.
07. Since it has been concluded on the basis of report by the committee of officers of the Revenue, in presence of the parties on spot, that the proprietary land of the petitioners has been used by the respondents No. 1 to 4, since the year 1965, without proper acquisition of land under law and even without payment of rentals of the land, as such, they are entitled to receive compensation thereof.
08. In case titled *Hari Krishna Mandir Trust vs. State of Maharashtra & others*, (2020) 9 Supreme Court Cases 356 the Hon'ble Supreme Court in Para 96 observed as under:-

“96.The right to property may not be a fundamental right any longer, but it is still a constitutional right under Article 300A and a human right as observed by this Court in *Vimlaben Ajitbhai Patel v. Vatslaben Ashokbhai Patel and Others*. In view of the mandate of Article 300A of the Constitution of India, no person is to be deprived of his property save by the authority of law. The appellant trust cannot be deprived of its property save in accordance with law.”

The Hon’ble Supreme Court again in case titled *Vidya Devi Vs. State of Himachal Pradesh and Ors*, (2020) 2 SCC 569 held in Paragraphs

12.1 to 12.6 observed as under:-

“12.1.The Appellant was forcibly expropriated of her property in 1967, when the right to property was a fundamental right guaranteed by Article 31 in Part III of the Constitution. Article 31 guaranteed the right to private property, which could not be deprived without due process of law and upon just and fair compensation.

12.2. The right to property ceased to be a fundamental right by the Constitution (Forty Fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a Constitutional right under Article 300 A of the Constitution. Article 300 A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300 A, can be inferred in that Article.

12.3 To forcibly dispossess a person of his private property, without following due process of law, would be violative of a human right, as also the constitutional right under Article 300 A of the Constitution.

Reliance is placed on the judgment in *Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chenai*, wherein this Court held that :SCC p.634 para 6)

“6. ... Having regard to the provisions contained in Article 300A of the Constitution, the State in exercise of its power of "eminent domain" may interfere with the right of property of a person by acquiring the same but the same must be for a public purpose and reasonable compensation therefor must be paid.”

(Emphasis supplied)

12.4. In *N. Padmamma v. S. Ramakrishna Reddy* , this Court held that (SCC p 526, para 21)

“21. If the right of property is a human right as also a constitutional right, the same cannot be taken away except in accordance with law. Article 300A of the Constitution protects such right. The provisions of the Act seeking to divest such right, keeping in view of the provisions of Article 300A of the Constitution of India, must be strictly construed.

(emphasis supplied)

12.5. In *Delhi Airtech Services Pvt. Ltd. & Ors. v. State of U.P. & Ors.*⁶, this Court recognized the right to property as a basic human right in the following words:

“30. It is accepted in every jurisprudence and by different political thinkers that some amount of property right is an indispensable safeguard against tyranny and economic oppression of the Government. Jefferson was of the view that liberty cannot long subsist without the support of property. "Property must be secured, else liberty cannot subsist" was the opinion of John Adams. Indeed the view that property itself is the seed bed which must be conserved if other constitutional values are to flourish is the consensus among political thinkers and jurists.”

(emphasis supplied)

12.6. In *Jilubhai Nanbhai Khachar v. State of Gujarat*, this Court held as follows :

“48. ...In other words, Article 300A only limits the powers of the State that no person shall be deprived of his property save by authority of law. There has to be no deprivation without any sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300A. In other words, if there is no law, there is no deprivation.”

(emphasis supplied)

09. From the facts and circumstances of the case, and as per the report of the Deputy Commissioner, Ramban, the petitioner's land measuring 07 kanals 11 marlas was taken over initially by J&K Public Works Department in the year 1965, which later on handed it over to the respondent No. 3-GREF to set up the headquarters of 52 Road Construction Company (RCC) at Batote, for the construction and

maintenance of the Jammu-Srinagar National Highway and the other projects undertaken by Border Road Organization. It is very strange that the land owners i.e., the petitioners and their predecessors were deprived of their landed estate without resorting to the law of the land i.e., either to acquire land in terms of Land Acquisition Act which was in vogue at that point of time or through private negotiations. The respondents are found to have been in possession of the land, for the last more than 60 years now, which is not permissible for the simple reason that right to hold property was initially a fundamental right, as per Constitution of India as well as the Constitution of J&K and is now also is a constitutional right under Article 300-A of the Constitution of India. The land owners cannot be divested of their property without following due course of law.

10. Having regard to the facts and circumstances of the case, the petitioners are held entitled to receive the compensation for their land measuring 07 kanals 11 marlas which has been used by respondent Nos. 2 to 4 since 1965, without payment of any compensation or rentals of the land in question. The petition is thus, allowed with a direction to respondent Nos. 2 to 4 to submit an indent to the District Collector, for acquisition of the land in accordance with law, within a period of four weeks, from the date a certified copy of this order is served upon them with a further direction to respondent No. 5 District Collector, Ramban to proceed on receiving the indent for acquisition of the land in question expeditiously so that the petitioners are provided

compensation for their land having regard to the fact that they have been deprived of their land for the last more than 60 years.

11. Petition, is thus, *disposed of*, along with connected application (s).

(M A CHOWDHARY)
JUDGE

Jammu
10.02.2026
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