

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

WP(C) No. 839/2022

CM No. 2528/2022

Reserved on:- 24.03.2026

Pronounced on:08.04.2026

Uploaded on:- 08.04.2026

*Whether the operative part
or full judgment is pronounced: Yes*

1. **Sansar Chand** S/O Anant Ram
2. Tej Ram S/O Sarvan Thakur
3. Mohd. Rafiq Khan S/O Mohd Shafi Khan
4. Mohd Fareed Khan S/O Mohd Shafi Khan
5. Mohd Ashraf Khan S/O Mohd Sikander Khan
6. Jamal Din S/O Amkala
7. Mohd Jaffer S/O Amkala
8. Mohd Farooq S/O Mohd Sikander Khan
9. Ghulam Haider Khan S/O Mohd Abdullah
10. Mohd Amin S/O Saif Din
11. Mahmood S/O Lasu Wani
12. Abdullah S/O Razaq Kachar
13. Mohd Qasim S/O Gh. Mohd Mir

....Petitioners

All residents of Village Mavolkote,
Tehsil Gool, District Ramban.

Through :- Mr. Nadeem Bhat, Adv.

Versus

1. **Union Territory of Jammu & Kashmir**
through Commissioner/Secretary to Govt.
Revenue Department, Civil Secretariat,
Jammu.
2. Deputy Commissioner, Ramban.
3. Collector Land Acquisition
(SDM) Gool
District Ramban.
4. Executive Engineer, PWD Division, Ramban.

....Respondent(s)

Through :- Mr. Ravinder Gupta, AAG

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

JUDGMENT

1. The petitioners, through the medium of this petition, *inter alia*, have prayed for the following reliefs:

(i) **Writ of certiorari:-** Quashing the final award bearing No.SDM/G/PWD/1475-81 dated 03.07.2020 passed by the respondent No.3 of the land acquired for the construction of Sangaldan Kanthan road in Village Movalkote under NABARD and quashing the Notification u/s 4(1) No.SDM/G/PWD/270-80

dated 07.03.2017 and 9, 9-A of J&K Land Acquisition Act 1990 and Notification No.6 and 7 of land J&K Acquisition Act bearing no. DC/LA/RBN/17/46-47 dated 15.06.2017;

- (ii) **Writ of Certiorari:-** Quashing the land acquisition proceedings conducted by the respondents more particularly respondent No.3 of the land measuring 45 kanal 7 marlas situated at Village Movolkote Tehsil Gool District Ramban for the construction of road from Sangaldan to Kanthan under PWD being against the Section 11-B & Section 4 of the Land Acquisition Act;*
- (iii) **Writ of Mandamus:-** Commanding the respondents more particularly respondent No.3 to initiate fresh land acquisition proceedings of the land measuring 45 kanals 7 marlas situated at Village Movolkote Tehsil Gool District Ramban which has been acquired for construction of road from Sangaldan-Kanthan road for public purpose because the final award has been passed in violation of Section 11-B of the J&K Land Acquisition Act, 1990;*
- (iv) **Writ of Mandamus:-** Commanding the respondents to initiate the fresh acquisition under Right to Fair Compensation and Rehabilitation Act 2013 and pay the compensation to the petitioners with interest as per the Fair Compensation Act; and*
- (v) **Writ of Mandamus:-** Commanding the respondents more particularly respondent No.3 to pay the compensation of Fruit bearing and non fruit bearing trees assessed by the authorities in the year 2013 dated 07.01.2013 and 24.01.2013.*
- (vi) To pass such other orders or directions which the Hon'ble Court may deem fit and proper in the nature and circumstances of case."*

2. Factual background as pleaded is that:-

- (I)** The government of J&K decided to construct a road from Sangaldan-Kanthan Bye pass through Village Movolkote, Tehsil Gool, District Ramban over the private land, houses and shops

owned and possessed by different persons including the petitioners and for this purpose, land was acquired by the respondents 2 and 3 under the Land Acquisition Act but without paying any compensation to the petitioners; that aggrieved thereof, the petitioners approached this court in the year 2011 as also in 2014 by way of filing writ petitions, which were disposed of with direction to the respondents to assess the land of the petitioners and pay compensation accordingly;

- (II) That respondents 3 and 4 in the year 2012 initiated the acquisition proceedings and Notification under Section 4(1) of the Act was issued on 09.10.2012 but final award was not passed within the stipulated time period; that again in the year 2017, notification U/S 4(1) of the Act was issued but the final award was not passed within a period of two years as required U/S 11-B of the Act and the same was passed on 03.07.2020 i.e. after the lapse of more than two years; that the compensation for the fruit bearing tree was not paid to the petitioners till date; that the respondents have not followed the procedure laid down in Section 4(1) of the Act as the Notifications u/s 4(1) and Sections 6 & 7 of the Act were not published in any newspaper, as such, the whole acquisition proceedings are required to be quashed; that no objections were sought from the land owners including the petitioners as they were not afforded an opportunity of being heard while Notifications U/Ss 9 and 9-A of the Land Acquisition Act were issued on 23.08.2017; that the Collector was duty-bound to pass the final award within a period of two years and the act of the respondents clearly violated the provisions of Land Acquisition Act.

(III) Aggrieved of the aforesaid action of the respondents, the petitioners have approached this court by way of filing this writ petition.

Objections on behalf of respondent No.3- Collector Land Acquisition (SDM), Gool.

3. In the objections filed on behalf of Collector Land Acquisition (SDM) Gool, it is contended that Executive Engineer, PWD Division Ramban, submitted an Indent vide his letter dated 20.01.2012 for construction of 'Sangaldan-Kanthan Road' in Village Movekote, Tehsil Gool, District Ramban; that Tehsildar Gool as per identification of indenting department, prepared that revenue papers of land measuring 45 kanals 07 marlas situated in Village Movekote, Tehsil Gool, District Ramban; that Shajra Khasra of the land was got attested/authenticated by the Revenue Authority/Indenting Department.

4. It was next contended that notification under Section 4(1) of the J&K State Land Acquisition Act Svt 1990 was issued by the Collector Land Acquisition (SDM) Gool vide endorsement No.SDM/G/PWD/270-80, dated 07.03.2017, calling objections from the interested persons with regard to the proposed acquisition; that no one turned up to file objections; that case was submitted to the Deputy Commissioner, Ramban for issuance of notification under Sections 6, 7 and 17 of the J&K State Land Acquisition Act, who vide No.DC/LA/Rbn/17/46-47, dated 15.06.2017 forwarded the case to Secretary to Govt. Revenue Department, J&K Government and consequently Government issued declaration under Sections 6 & 7 of the J&K State Land Acquisition Act vide Notification No.379 Rev (LAJ) of 2017, dated 16.08.2017; that Notifications u/ss 9, 9-A of the J&K State Land Acquisition Act were issued

on 23.08.2017 for calling objection, from owners/interested persons with regard to the measurement of the land and quantum of compensation; that final award was passed on 03.07.2020; that in the aforesaid backdrop, the respondents have not violated any provisions of the Act and the full and final payment of compensation has been disbursed to the land owners; that the compensation for fruit bearing trees and also non fruit bearing trees have also been reflected in the final award. Finally, it is stated in the objections that the writ petition be dismissed as non maintainable.

Objections on behalf of respondent no.4- Executive Engineer, PWD (R&B) Division, Ramban.

5. The Indenting Department in its reply, stated that petitioners have concealed material facts from this court and disputed questions of law and facts being involved in the writ petition, the same cannot be raised by invoking extraordinary writ jurisdiction of this court, therefore, the writ petition be dismissed.

6. Learned counsel for the petitioners submits that though the petitioners have assailed the final award on many counts, however, he, as instructed by the petitioners, restricts his arguments to the only legal issue involved in the matter with regard to the fact that the impugned award having been passed after the lapse of two years from the date of initiation of the acquisition proceedings, is illegal having been passed after the statutory period of two years. He has argued that the law is no longer, *res integra*, in view of law of precedence enunciated by this Court through a Division Bench passed in judgment dated 16.11.2022 passed in WP(C) No. 1274/2020 titled **Gulzar Ahmad Akhoon & Ors. V. UT of J&K & Ors.** and also by a Writ Court in

WP(C) No. 2237/2024 titled ‘Hamid Ullah Wani V. UT of J&K & Ors.

vide judgment dated 10.09.2025 and prayed that the award be set aside on this count only. He has argued that the Notification under Section 6 of the J&K Land Acquisition Act had been issued on 15.06.2017, whereas the final award was passed by the Collector on 03.07.2020, admittedly, after the lapse of two years and is, thus, not sustainable in law and deserves to be set aside.

7. Learned counsel for the respondents, besides reiterating the contentions raised in the reply/objections, vehemently, argued for dismissal of the writ petition being not maintainable as it involves disputed questions of facts; that petitioners approached this court with unclean hands; that respondents have not violated any of the provisions of the Land Acquisition Act as alleged by the petitioners as after passing of final award, full and final payment of compensation has been disbursed to the land owners; that bald and baseless allegations have been raised in the petition against the respondents. Lastly, it is prayed that the writ petition be out-rightly dismissed as non maintainable.

8. Heard learned counsel for the parties, perused the file and considered the matter.

9. The facts as emerging from the pleadings and, particularly, having reference to the impugned final award passed by the Collector Land Acquisition (SDM) Gool, with regard to land measuring 45 Kanals 7 Marlas for construction of Sangaldan Kanthan Road in Village Movalkote, Tehsil Gool, District Ramban are that the Government of Jammu & Kashmir vide Notification No.379-Rev(LAJ) of 2017 dated 16.08.2017 through Revenue Department issued declaration under Sections 6 & 7 of the J&K State Land Acquisition Act for the acquisition of the land in question on an indent

submitted to the Collector by Executing Engineer, PWD Division Ramban vide his letter dated 20.01.2012 and thereafter proceeded in the matter, the Collector vide impugned final award acquired the said land granting compensation to the tune of Rs.2,37,61,016/- as compensation along with solatium @ 15% for the aforesaid land in favour of the interested persons. The **acquaintance roll** prepared by the Collectorate and annexed with the final award indicates that the petitioners' land was also acquired vide the aforesaid impugned final award.

10. In the background of the aforestated factual foundation, the petitioners have raised a specific point for consideration as to whether the impugned award passed by the respondent- Collector is in derogation of the provisions of Section 11-B of the J&K Land Acquisition Act and is unsustainable in law, and the entire acquisition proceedings would be deemed to have lapsed with the efflux of time, as provided under this provision. Admittedly, the declaration under Section 6 of the Act was made on 16.08.2017, which is the date on which the State Revenue Department vide its Communication No. Rev/LAJ/273/2017, conveyed to the respondent- Collector about the issuance of the declaration, and the final award was passed on 03.07.2020, much beyond the stipulated period of two years fixed by Section 11-B of the Act, inserted by the State Land Acquisition (Amendment) Act, 1997.

11. In the aforesaid issue between the parties, it would be necessary to first set out the provisions of Section 11-B which came to be inserted in the Act by virtue of the State Land Acquisition (Amendment) Act, 1997.

“11-B. Period within which an award shall be made.-

The Collector shall make an award under Section 11 within a period of two years from the date of publication of the

declaration and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse:

Provided that in case where the said declaration has been published before the commencement of the State Land Acquisition (Amendment) Act, 1997, the award shall be made within a period of two years from such commencement.

Explanation- In computing the period of two years referred to in this section, the period during which any action or proceedings to be taken in pursuance of the said declaration is stayed by an order of a court, shall be excluded.”

12. The Collector, as per this amended provision of Section 11-B of the Land Acquisition Act was under an obligation to pass the award within a period of two years from the date of publication of declaration under Section 6 of the Act and in default of it, the entire proceedings of the acquisition stood lapsed and therefore the final award passed after the expiry of two years from the date of publication becomes a nullity and cannot be acted upon.

13. In view of the facts stated hereinabove and reiterated at the cost of repetition that in the case on hand, the Notification under Section 6 of the Act was issued on 15.06.2017, whereas the final award came to be passed on 03.07.2020, which, admittedly, is beyond the prescribed limit of two years as envisaged under Section 11 of the Act. In view of the admitted factual matrix of the case, the only question which craves for determination in this case is whether the entire acquisition proceedings stand lapsed for failure of the Collector to make an award under Section 11 of the Act within a period of two years from the date of publication of the declaration and if it is so, what is the fate of the final award passed by respondent No.2, which is impugned in this petition and allied question that also falls for consideration in this petition is as

to what relief the petitioners would be entitled to, if the entire acquisition proceedings were held to be lapsed after efflux of time.

14. From the perusal of the Section 11 of the Act, in its entirety, it becomes abundantly clear that it does not make any provision for making any tentative award by the Collector, it only envisages a tentative assessment of the compensation which in the opinion of the Collector should be allowed for the land under acquisition as per Section 11(1)(b) of the Land Acquisition Act. Admittedly, the award in the instant case has been passed by the Collector beyond the period of two years as prescribed under Section 11-B of the Act and by that time, the entire acquisition proceedings had lapsed by operation of this provision. The Notification under Section 6 of the Act having been issued on 15.06.2017, the proceedings which culminated into the impugned award passed by the Collector shall thus be deemed to have lapsed. To be precise and exact, the land acquisition proceedings, in the instant case, lapsed on 16.06.2019, when two years period from the publication of the declaration under Section 6 of the Act, came to expire.

15. The respondents have not shown anything from the record that the acquisition proceedings after the issuance of declaration under Section 6 of the Act had remained suspended due to order of stay issued by any court of competent jurisdiction so as to attract the explanation appended to Section 11-B. The Apex Court in a case titled ‘Madhao Vs. The State of Maharashtra’ reported as **(2007) 7 SCC 555** has categorically held that if the award is not passed within a period of two years from the date of publication of the declaration under Section 6 of the Act, the proceedings under the Act would lapse. Similar question was considered by the Apex Court in another case titled ‘Laxman Pandhya & Ors. V. State of UP & Ors.’ reported as **(2011) 14**

SCC 94, wherein it was held by the Apex Court that the High Court was justified in refusing to quash the acquisition proceedings despite the fact that the award was not made within the period prescribed under Section 11-A of the Act. Paragraph 12 of the judgment being relevant is extracted as below:

“12. A reading of the above reproduced provision makes it clear that the Collector is required to pass an award within the period of two years from the date of the publication of the declaration and if the award is not made within that period, the acquisition proceeding automatically lapses. The proviso to Section 11A lays down that where the declaration was published before commencement of the Land Acquisition (Amendment) Act, 1984, the period of two years begins from the date of amendment, i.e. 24.09.1984. Explanation appearing below Section 11A lays down that in computing two years, the period during which any action or proceeding to be taken pursuance to the declaration is stayed by an order of a Court, shall be excluded.”

16. A Division Bench of this Court in a case titled ‘Gulzar Ahmad Akhoon & Ors. V. UT of J&K & Ors.’ passed in WP(C) No. 1274/2020 vide judgment dated 16.11.2022, held in similar and identical factual background that an award passed after statutory period of two years as contemplated under Section 11-B of the J&K Land Acquisition Act, the proceedings having been lapsed, the award passed thereon beyond the statutory period is nullity and is liable to be quashed. However, while moulding the relief as having been guided by the judgment of the Supreme Court in ‘Delhi Airtech Services Pvt. Ltd. & Anr. V. State of U.P & Anr.’ reported as **2022 INSC 1086**, instead of holding the acquisition proceedings having been lapsed, directed the respondents that the final award insofar as it pertains to the petitioners was set-

aside and the Collector was directed to pass fresh award qua the petitioners only and that for that purpose shall construe the date of passing of the final award as the relevant date for determination of compensation provided under the 1990 Act in respect of the acquired land of the petitioners only, besides calculating other statutory benefits on such amounts including interest to be calculated and determined by taking into consideration the date of taking over the possession.

17. A single Bench in WP(C) No. 2236/2024 titled '*Hamid Ullah Wani & Ors. V. UT of J&K & Ors.*' in judgment dated 10.09.2025 also set aside the impugned award therein to the extent of petitioners having been passed after more than two years with the directions to pass fresh award qua the property of the petitioners.

18. A legal position as laid down by the Apex Court in case of '*M/s Delhi Airtech Services Pvt. Ltd. & Anr. V. State of U.P & Anr.*' reported as **2022 INSC 1086** makes it clear that in the event, the Collector invokes urgency clause and possession of the acquired land is taken after tendering and paying 80 percent of the estimated compensation, the land vests absolutely in the Government and in such a situation, the acquisition proceedings would not lapse in spite of the fact that the award may have been passed after expiry of two years from the date of issuance of declaration. It has been made clear that in order to avoid the application of Section 11-A of the Central Act of 1894 which is in pari-materia with Section 11-B of the State Land Acquisition Act, the conditions laid down in Sections 17-A of the State Land Acquisition Act which corresponds to Section 17(3A) of the Central Act, have to be fulfilled inasmuch as, the land losers should have been paid 80 percent of the compensation assessed and the possession of the land must have been taken

only, thereafter. It has also been held by the Supreme Court that if a land loser does not challenge the acquisition proceedings on the ground that final award has not been passed within two years of issuance of declaration, the acquisition proceedings would not lapse and the possession taken would not become per se illegal.

19. With the aforesaid legal position as enunciated by the Apex Court as well as this Court and advertent to the facts of the present case, admittedly, the impugned award has been passed by the Collector after lapse of two years from the date of issuance of declaration under Section 6 of the State Land Acquisition. Even receipt of the compensation as submitted by the respondents by the land owners under protest during or after passing of the award cannot be made a ground to upset the legal proposition as provided under Section 11-B of the State Land Acquisition Act, which is squarely applicable to the facts of the present case.

20. As per the impugned award, land measuring 45 Kanals 7 Marlas for construction of Sangaldan-Kanthan Road in Village Movalkote, Tehsil Gool, District Ramban has been acquired vide impugned award and the said land belongs to the many land owners besides the petitioners herein. The other land owners may not be aggrieved of the acquisition proceedings and they have not approached this court, therefore, the land acquisition to the extent of the other land owners cannot be set at naught. In these circumstances, the respondent-Collector, to initiate fresh acquisition proceedings, would not only be time consuming but will also involve a lots of efforts and expenses which would ultimately not be even in the interest of the petitioners, therefore, direction for initiation of fresh acquisition proceedings under the Act of 2013, in the facts and circumstances of the case may not be appropriate, particularly, in view of

law laid down by the Apex Court in the case of *M/s Delhi Airtech Services Pvt. Ltd.* (supra) and followed by this court in earlier judgments in similar circumstances moulding of relief by providing the land losers who had approached the court would be entitled to compensation by determining the market value of their land with reference to the date of issuance of the final award.

21. Having regard to the foregoing reasons and the discussion made hereinabove, it is held that the impugned award qua the petitioners' property having been passed after the lapse of statutory period of two years, is a nullity and is liable to be set-aside. The writ petition is, thus, allowed with the following directions:

- (i) The impugned Final Award no. SDM/G/PWD/1475-81 dated 03.07.2020 to the extent of petitioners is quashed;
- (ii) The Collector Land Acquisition (SDM) Gool shall pass fresh award in respect of the petitioners' property only and for that purpose, he shall construe the date of final award i.e. 03.07.2020 as the relevant date for determination of market value by applying the yardstick, for assessment of the compensation provided under the State Land Acquisition Act in respect of the acquired land of the petitioners only;
- (iii) The Collector shall also calculate and award other statutory benefits on such amounts including interest, to be calculated and determined by taking into consideration the date of taking over the possession of the land;
- (iv) The date on which the fresh award that may be passed by the Collector in favour of the petitioners pursuant to this

judgment is intimated to them, shall be the date of cause of action, for seeking enhancement of compensation under the State Land Acquisition Act if the petitioners or any of them is dis-satisfied with the quantum of compensation offered;

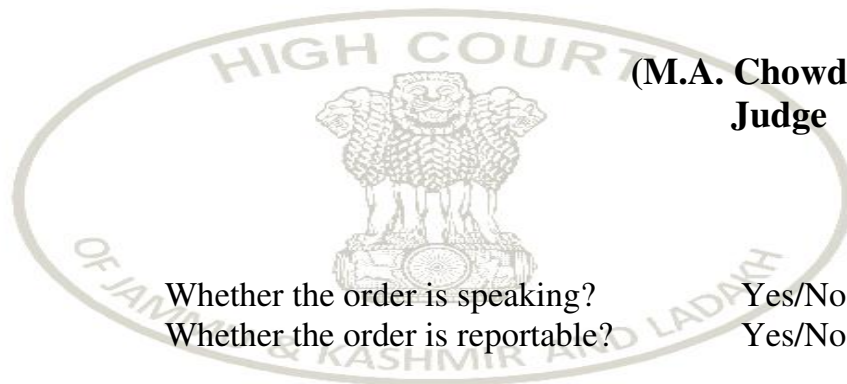
(v) The amount of compensation, if any already received by the petitioners, shall be adjusted while disbursing the compensation in terms of the fresh award that may be passed; and

(vi) The compensation determined in favour of the petitioners pursuant to this judgment shall not give cause of action to any other land losers whose land has been acquired in the impugned award.

22. With the above directions, the writ petition is accordingly disposed of as **allowed**, along with pending application(s).

Jammu:
08.04.2026
Raj Kumar

(M.A. Chowdhary)
Judge



Whether the order is speaking?

Yes/No

Whether the order is reportable?

Yes/No