

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

...

WP(C) No. 958/2023

Uploaded on: 11.08.2026

Mohd Shafi Chopan, Age 65  
years S/o Habib Chopan, R/o  
Sumer, Tehsil Ramban District  
Ramban.

.....Petitioner(s)

Through: Mr. M. Nadeem Bhat, Advocate

Vs.

1. The Union Territory of Jammu and Kashmir through its Commissioner/Secretary to Government, Revenue Department, Civil Secretariat, Srinagar/Jammu.
2. Deputy Commissioner, Ramban.
3. Collector Land Acquisition (Railway) Additional Deputy Commissioner, Ramban.

.....Respondent(s)

Through: Ms. Sagira Jaffer, Advocate vice  
Ms. Monika Kohli, Sr. AAG

**CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER**  
**10.08.2026**

1. The petitioner has filed the present petition seeking a direction to the respondents, more particularly respondent No. 3, to release the compensation in favour of the petitioner, as already assessed by respondent No. 3 in terms of the award dated 06.09.2012, in respect of

land measuring 2 kanals 12 marlas, comprising Survey No. 340, 11 kanals 09 marlas, comprising Survey No. 338, and 01 kanal 16 marlas, comprising Survey No. 343, measuring a total of 15 kanals 16 marlas, situated at Village Sumber, Tehsil and District Ramban

2. It is stated that the father of the petitioner was in cultivating possession of the land mentioned above and, after his death, the said land devolved upon the petitioner. The land is stated to be ancestral in nature and in the possession of the petitioner's forefathers since 1960. It is further stated that the petitioner's land was acquired by the respondents for the construction of a railway track at Village Sumber, vide award dated 06.11.2022, and the compensation payable to the petitioner was assessed at Rs. 14,27,725/-. However, the awarded amount has not been released in favour of the petitioner till date. It is further stated that the petitioner is a "person interested" within the meaning of Section 3(b) of the Land Acquisition Act and that, in terms of Government Order No. 434 of 1966, proprietary rights were required to be conferred upon persons who were in cultivating possession of State land. However, the concerned Tehsildar did not attest the mutation in favour of the petitioner. In paragraph 12 of the petition, the petitioner has relied upon the judgment of the Division Bench of this Court passed in LPA No. 153/2020, titled **Krishan Singh v. UT of J&K and others**, in support of his case.

3. The respondents have filed their objections, wherein they have set out the chronology of events, commencing from the issuance of notice under Section 4 of the Land Acquisition Act up to the passing of the award. It is, however, stated that the assessment of the fruit-bearing trees has been

carried out and compensation equivalent to 40% of the value of the fruit-bearing trees existing on the State land has already been deposited in the bank account of the petitioner, whereas the remaining 60% of the compensation in respect of the fruit-bearing trees existing on the State land is to be deposited under State Revenue Head 0029. It is further stated that the petitioner is not entitled to any compensation, as the land is recorded as State land in the revenue records.

4. Learned counsel for the petitioner, in support of his submissions, has relied upon the judgment of this Court passed in WP(C) No. 1855/2011, titled *Gain Chand/Singh v. UT of J&K and others*, to contend that, in an identical matter, this Court had allowed the writ petition and directed the respondents therein to pay compensation to the petitioner therein in accordance with the award.
5. Learned counsel appearing for the respondents submits that the petitioner is an unauthorized occupant of the State land and, therefore, has no right to claim compensation in respect thereof.
6. Heard learned counsel for the parties and perused the record.
7. Admittedly, the petitioner is in possession of the State land. As per the apportionment statement, the petitioner has been found to be in possession of State land measuring 11 kanals 09 marlas, comprising Survey No. 338; 02 kanals 12 marlas, comprising Survey No. 340; and 01 kanal 16 marlas, comprising Survey No. 343. The apportionment statement also assesses the compensation payable in respect of the aforesaid land to the petitioner.

8. The sole contention raised by the respondents for denying the compensation so assessed in terms of the award and the apportionment statement is that the petitioner, being an unauthorized occupant of the State land, is not entitled to receive any compensation in respect thereof.
9. The issue is no longer *res integra*. It is well settled that a person in possession of the acquired land is a “person interested” and is entitled to receive compensation in respect of such land in accordance with the final award, notwithstanding the fact that he may not be the owner thereof or that the land is recorded as State land. In the judgment relied upon by the petitioner in **Gain Chand/Singh** (supra), this Court directed the respondents to release the compensation to the petitioner therein in accordance with the award, after placing reliance upon the judgment rendered by the Division Bench in **LPA No. 153/2020, titled Krishan Singh and another v. Union Territory of J&K and others**, decided on 21.08.2021, and after taking note of paragraphs 6, 7 and 8 thereof. The paragraphs 6, 7 and 8 of the said judgment are reproduced hereunder:

“6 From a perusal of the award` passed in the instant case and the apportionment statement prepared by the Collector Land Acquisition, Gool, it is abundantly clear that the compensation has been worked out by the Collector in the name of the appellants, who have been found to be in cultivating possession thereof. No doubt, the State is the owner of the State land, but as is held by the Hon“ble Supreme Court in the case of Sharda Devi (supra) that the Government, not being a person interested within the meaning of Section 3(b) of the Act, has no right to compensation payable for the land owned and possessed by it. To be precise, the State land cannot be made subject matter of acquisition at the instance of and for the benefit of the Government. **Otherwise also, the award passed by the Collector Land Acquisition, Gool in the instant case has become final and the respondents have not challenged the same. It, thus, does not lie in the mouth of the respondents to say that the appellants, though named in the apportionment statement to receive the compensation, should be denied the compensation on the ground that they**

**are not the owner of the land acquired, but were only found to be in cultivating possession.**

7 This Court considered similar question in case titled **‘Krishana vs. State of Jammu and Kashmir and ors’ (OWP No. 1101/2016)** and, after relying upon several judgments of this Court as well as the Apex Court, concluded that **the person in possession of the land is a ‘person interested’ and entitled to compensation of the acquired land as per the final award, even though he may not be owner of the property and the land is a State land. It is not in dispute that the appellants have been in long continuous possession of the land and have, therefore, acquired sufficient interest in the land to claim compensation.**

8 For facility of reference, the observations of this Court in paragraph 22 of the judgment rendered in the case of Krishana (supra) are reproduced hereunder:

“This is exactly the position in the present case, where while making the award, the Collector itself determined the compensation in respect of the aforesaid State land recognizing the tenancy/possession of the petitioner. Therefore, the compensation that has been determined under the award in respect of the land in question is for the person interested namely, the petitioner. Thus, it can safely be concluded that the petitioner is the person interested entitled to the compensation of the acquired land as per the final award dated 20.03.2012 to the tune of Rs. 85,388/-, Even though he may not be the owner of the property and the land is that of the State simply on the basis even though he may not be the owner of the property and the land is that of the State simply on the basis of his long possession which is not in dispute”.

(emphasis added)

10. The aforesaid judgment of the Division Bench was assailed before the Hon’ble Supreme Court, however, the Special Leave Petition came to be dismissed vide order dated 21.11.2024.
11. Thus, the respondents cannot seek to deny the petitioner the compensation duly assessed by respondent No. 3-Collector merely on the ground that the petitioner was in unauthorized occupation of the State land, particularly when the award determining the compensation has not been assailed by the Union Territory of Jammu and Kashmir.
12. In view of the above, the present petition is disposed of by directing the respondent No. 3 to release the compensation in favour petitioner

assessed by respondent No. 3, within a period of eight weeks alongwith interest @ 6% per annum from date of receipt of this order till the actual compensation is released.

(Rajnish Oswal)  
Judge

Jammu  
10.08.2026  
Karam Chand

Whether approved for reporting:      Yes/No

