

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

Case No: WP(C) No. 2817/2021

c/w

WP(C) No.2818/2021

Reserved on : 11.09.2026

Pronounced on : 18.09.2026

Uploaded on: 18.09.2026

Roshan Begum and others
a/w connected matter(s).

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

Through: Mr. Gagan Basotra, Sr. Advocate with Ms.
Purvehi Khajuria, Advocate
Mr. M.Nadeem Bhat, Advocate

Vs.

UT of J&K and others

.... Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC
Ms. Monika Kohli, Sr. AAG with Mr. Vishal
Gupta, Advocate
Ms. Sagira Jaffar, Advocate

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

JUDGMENT

1. The petitioners, through the medium of these petitions, have *inter alia* challenged the acquisition proceedings initiated by the respondents pursuant to Notification No. 94-100/SDM/G/Gref dated 27.10.2016 issued under Section 4 of the Jammu and Kashmir Land Acquisition Act, 1990, for construction of the Gool-Budhan road under GREF. Challenge has also been thrown to Award No. 86-93/SDM/G/Gref dated 04.07.2018 passed by respondent No. 3 in respect of land measuring 136 Kanals and 3½ Marlas situated at Village Gool. The petitioners have also sought a direction for initiation of fresh land

acquisition proceedings in respect of their proprietary land, which has come under acquisition.

2. According to the petitioners, the Government decided to construct a road from Gool to Budhan of Village Gool, District Ramban. For the said purpose, they proposed to acquire the private land, houses, and shops possessed by different persons, including the petitioners. In this regard, a Notification under Section 4 of the Land Acquisition Act, 1990 (hereinafter referred to as “the Act”) came to be issued on 27.10.2016 for acquisition of land measuring 136 Kanals and 3½ Marlas, and possession of the said land was taken over by GREF. It has been submitted that the Notification under Section 4 of the Act has not been issued by adhering to the said provision, inasmuch as it has not been published in accordance with the requirements thereof. According to the petitioners, a declaration under Section 6 of the Act was issued on 16.08.2017, and even at that stage, the mandate of law was not followed. Thereafter, Notifications under Sections 9 and 9-A of the Act came to be issued on 23.08.2017. It has been submitted that the impugned tentative award dated 04.07.2018 came to be issued, but thereafter, no final award has been passed by the Collector till date. Thus, in terms of Section 11-B of the Land Acquisition Act, the acquisition proceedings have lapsed. The petitioners have admitted that they have received 80% of the compensation for the land, but the same was received by them under protest.
3. The contention of the petitioners is that, because the Collector has not passed the award within the stipulated period of two years from the date of publication of the declaration under Section 6 of the Act, the

proceedings have lapsed, and the respondents are legally obliged to initiate fresh land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the “Act of 2013”).

4. The respondent-Collector, in reply to the petition, has submitted that the road was constructed way back in the year 1960 by the PWD. However, in the 1990s, the GREF took over the said road for defence purposes, and the same was upgraded by the GREF from time to time. It has been submitted that, in the year 2012-2013, the landowners approached different authorities and also served a notice under Section 80 CPC, with the demand that the land underlying the road be acquired under the J&K Land Acquisition Act, so that they could receive compensation.
5. Accordingly, in the year 2016, the land acquisition proceedings were initiated, and a Notification under Section 4 of the Act was issued. It has been submitted that the contention of the petitioners that they were unaware of the issuance of the Notification under Section 4 of the Act is misleading. It has been submitted that the landowners remained present on the spot at the time of preparation of the revenue papers. According to the Collector, all the mandatory provisions envisaged under the J&K Land Acquisition Act were followed, and the award was passed on 04.07.2018. It has been submitted that the assessment of two structures could not be made by the PWD, R&B, as the landowners resisted the taking of measurements of these structures, due to which the final award could not be issued. It has

also been submitted that, due to the outbreak of COVID-19 in the year 2020-2021, the assessment of the structures was delayed. It has been submitted that the intending department could not make the funds available due to paucity of funds. It is being submitted that the period of 2020-2021 needs to be excluded for computing the period of two years in terms of Section 11-B of the Land Acquisition Act, as the COVID-19 pandemic was prevailing during the said period. It has been submitted that 80% of the payment has been made to the landowners.

6. The intending department-respondent No. 4 has also filed objections to the writ petition. In the objections, it has been submitted that, in the year 1995, the existing road was approved for improvement and is presently being maintained under Scale-II maintenance grant by 110 RCC/31 TF Project Sampark. It has been submitted that the width of the road is presently 18.30 metres and that compensation has already been paid for the stretch between Budhal and Budhan in respect of this width of the road.
7. According to respondent No. 4, a draft award amounting to Rs. 9,97,56,675/- was submitted by the Collector, Gool, vide his communication dated 04.07.2018, and a tentative amount of Rs. 210.00 lakhs on account of compensation for structures was also submitted vide letter dated 08.09.2018. It has been submitted that respondent No. 4 expressed his inability to prepare the estimate for release of funds for want of the final award. Ultimately, the final award was issued by the Collector vide his communication dated 22.12.2018, without being accompanied by supporting documents,

and the issue was again taken up with the Collector vide communication dated 05.01.2019. The final award for the balance stretch from Budhan to Gool, along with all the documents, was issued by the Collector, Gool, vide his communication dated 29.01.2019.

8. It has been submitted that, in terms of the said award, a projection for funds amounting to Rs. 9,97,56,675/- was made to the Headquarters vide communication dated 18.07.2019. It has been submitted that the projected estimate was re-costed to Rs. 9,96,37,910/- as some portion of the State land was also included in the apportionment statement, and a fresh projection was forwarded to the Headquarters on 12.02.2021. It has been submitted that, vide Cheque No. 066943 dated 13.03.2021, an amount of Rs. 9,96,37,908/- on account of compensation for 136 Kanals 3½ Marlas of land was deposited with the Collector for disbursement to the rightful claimants.
9. It has been submitted that the compensatory payment in respect of 13 structures will be processed as soon as the valuation sheet from the Collector is received, and a demand in this regard was made to the Collector vide communication dated 28.07.2022. According to respondent No. 4, the petitioners have admitted receipt of 80% of the compensation amount and, as such, they are estopped from questioning the validity of the award.
10. I have heard learned counsel for the parties and perused the record of the case including the record produced by the Collector.
11. There is no dispute as to the legal position that, if the award is not made by the Collector within two years of the issuance of the

declaration under Section 6 of the J&K Land Acquisition Act, the provisions of Section 11-B of the said Act come into play, and the entire acquisition proceedings lapse, whereafter fresh acquisition proceedings have to be initiated. The question that arises for determination in the present case is whether the Collector has failed to make the final award within the stipulated period of two years from the date of issuance of the declaration under Section 6 of the Act. In the present case, the declaration under Section 6 of the Act was issued by the Government on 16.08.2017. The award, which is termed by the petitioners as a “tentative award” and by the intending department as a “final award”, was issued on 04.07.2018. The determination of the issue as to whether the land acquisition proceedings have lapsed would depend upon the determination of the question as to whether the award dated 04.07.2018 is a tentative award or a final award.

12. If we have a look at the award dated 04.07.2018, it is recorded therein that the Deputy Commissioner, Ramban, vide his communication dated 31.03.2017, has mentioned the stamp duty rates in respect of Village Gool as Rs. 3,78,000/- per kanal pertaining to the un-irrigated type of land. It has been further noted in the award that a meeting of the Collector Committee was fixed on 27.09.2017 under the Chairmanship of the District Collector, Ramban, and all the Collectors unanimously adopted the rates of Rs. 4,50,000/- per kanal for the un-irrigated type of land. The award goes on to record that the compensation for land measuring 136 Kanals and 3½ Marlas, which is equivalent to 88 Kanals 10 Marlas, has been worked out at Rs. 3,98,25,000/-. Besides this, the compensation for the structures has

been worked out at Rs. 4,22,34,000/-. However, the compensation in respect of the structures has been assessed on a tentative basis, as it is recorded in the award that the assessment of structures has been received from the PWD in part and that the assessment of structures in respect of 13 owners is pending with the PWD. It has been further recorded that the final award will be issued after receiving the pending assessment of the structures from the PWD.

13. Thus, insofar as the compensation for the land is concerned, a final decision has been taken by the Collector vide award dated 04.07.2018. The final decision with regard to compensation on account of structures has not been taken and to that extent, award dated 04.07.2018 is provisional in nature. Insofar as the compensation for the land, including Jabarana and incidental charges, is concerned, a final decision has been taken by the Collector, and to this extent, the award can be termed a “final award”, notwithstanding the fact that in the concluding paragraph, the Collector has used the words “tentative proposal”. This is so because to the extent of assessment of land compensation, the Collector was not required to get any further information or approval.

14. Section 11 of the J&K Land Acquisition Act deals with the award of the Collector. The competent authority to make the award is the Collector. It provides that the Collector, after making inquiries into the objections received pursuant to the notice given under Section 9, the measurements made under Section 8, the value of the land and the data published in the notification under sub-section (1) of Section 4, and the respective interests of the persons claiming compensation, as

also the objections of the Head of the Department or his nominee pursuant to the notice given under Section 9-A, shall tentatively assess the compensation which, in his opinion, should be allowed for the land. Sub-section (2) of Section 11 mandates that, if the compensation tentatively assessed by the Collector under sub-section (1) exceeds the amount specified by the Government by notification, he has to refer the record of the case, along with a statement of the tentative assessment of compensation, for approval of the Revenue Minister or an Officer specially empowered by him in this behalf. Section 12 of the Land Acquisition Act makes the award of the Collector final and conclusive between the Collector and the persons interested, except in cases as provided in the said Act.

15.In the present case, the rate of compensation assessed by the Collector did not exceed the amount specified by the Government by any Notification. Therefore, once the Collector decided to adopt the particular rates for assessing the compensation for the land, the same was not required to be sent to the Revenue Minister or any other authority for approval. In fact, in the award dated 04.07.2018, the Collector has nowhere stated that he was sending the rates assessed by him for approval of any higher authority, meaning thereby that the award in question, insofar as it related to the compensation for the land, was final and had become binding between the parties, subject to its challenge by way of reference or otherwise.

16.In fact, the term “tentative award”, which has been used by the petitioners in the writ petitions and by the Collector in his reply, is a misnomer and does not find mention in any of the provisions of the

Land Acquisition Act. Once the competent authority, i.e. the Collector, has finalized the rates of compensation, the award of compensation in terms of the said rates becomes a final award, unless it requires approval by a higher authority in the situation contemplated under Section 11 of the Act. As already stated, in the present case, there was no requirement of approval of rates by a higher authority insofar as the compensation for the land is concerned, as such, the award, to the extent of compensation for the land, had become final.

17. Pursuant to the passing of the aforesaid award, the petitioners have admittedly accepted 80% of the compensation for the land. They have stated that they accepted the compensation under protest, but the record produced by the Collector does not suggest so. Once they have accepted the land compensation, they cannot turn around to challenge the award under which they have received the compensation without demur.

18. A similar question came up for consideration before the Supreme Court in the case of **Mohanji and another Vs. State of U.P. and others**, reported as **1995 JT (SC) 8 599**. In the said case, a contention was raised that the award passed was only in respect of the vacant land and not in respect of the building constructed thereon and, therefore, no award had been made within the specified period as required under Section 11-A of the Central Act. Since a piecemeal award is not contemplated thereunder, the Supreme Court, while considering this aspect observed as under:-

“5. It is no doubt true that the entire award which is contemplated u/s 11 of the Act by virtue of the prescription in

Section 11A has to be made within the period of two years failing which the entire proceeding shall lapse. The question is whether it can be said in the present case that no award has been made u/s 11 of the Act in this proceeding? In our view it cannot be said that no award u/s 11 has been made for the land acquired. Admittedly, compensation has been determined in the award so made for the entire area of 0.99 acres. In view of the fact that no piecemeal award by making a subsequent award after the expiry of the period of two years is contemplated in law, the award dated 23.9.1986 must be construed as the whole award made u/s 11 awarding compensation for the entire area of 0.99 acres with no compensation awarded for the building. The Appellants, therefore, had the right to claim compensation for the building by seeking a reference u/s 18 of the Act treating the award as one in which compensation had been determined and awarded only for the entire land measuring 0.99 acres but no compensation was awarded for the building therein. The Appellants had the remedy to claim compensation for the building in accordance with law treating the award made as not awarding any compensation for the building. That is, however, a different matter and it does not require any further consideration in this context. It is sufficient to say that the award dated 23.9.1986 made within the period specified in Section 11A of the Act must be construed as an award u/s 11 in the proceedings for acquisition of the Appellants' land bearing Plot No. 1311 having a total area of 0.99 acres. The contention that the entire proceeding for acquisition of the land has lapsed by virtue of Section 11A cannot, therefore, be accepted.”

19. Again, the Supreme Court, in **State of Punjab and others Vs. Sharan Pal Singh**, reported as **1996 (11) SCC 683**, after relying upon the ratio laid down in Mohanji's case (supra), held that an award in respect of the land, where the determination of compensation for the

superstructures and trees standing thereon was left to be made separately, has to be construed as a complete award in terms of Section 11 of the Act, and the contention to the contrary cannot be sustained.

20. In view of the aforesaid legal position, it is clear that, even if the award dated 04.07.2018 passed by the Collector-respondent is not final to the extent of compensation in respect of the superstructures existing on the land, nonetheless, it is an award in terms of Section 11 of the Act insofar as it pertains to the assessment of compensation for the acquired land. The said award has to be construed as an award under Section 11 of the Land Acquisition Act, and it cannot be stated that the land acquisition proceedings have lapsed in the present case. The writ petitioners cannot challenge the award after having received 80% of the compensation under the said award without any protest.

21. For the foregoing reasons, I do not find any merit in these writ petitions, which are accordingly **dismissed**. The respondent-Collector is directed to disburse the balance amount to the rightful claimants and he shall also proceed to conclude the assessment of compensation in respect of the left-out structures by passing a supplementary award as expeditiously as possible.

(Sanjay Dhar)
Judge

Jammu
18.09.2026
Madan Verma-Secy

Whether order is speaking?	Yes
Whether order is reportable?	Yes