

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

WP(C) No.2822/2021

Reserved on: 02.04.2026
Pronounced on: 08.04.2026
Uploaded on:- 08.04.2026

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

1. **Ram Pyari** (62 yrs)
W/O Sh. Prakash Chand
R/O Village Pragalta,
Tehsil and District, Jammu.
2. **Devi Dass** (30 yrs)
S/O Sh.Gyan Chand,
R/O Village Pragalta,
Tehsil and District, Jammu.
3. **Sham Lal** (58 yrs)
S/O Sh.Tirath Ram,
R/O H. No.A-1,
Tawi Vihar Colony,
Sidhra, Jammu
4. **Jagdish Raj**
S/O Balwant Raj,
R/O H.No.A-1
Tawi Vihar Colony,
Sidhra, Jammu.
5. **Vijay Kumar** (30 yrs)
S/O Balwant Raj,
R/O H.No.A-1
Tawi Vihar Colony,
Sidhra, Jammu.
6. **Usha Devi**
W/O Davinder Kumar,
R/O H.No.A-1
Tawi Vihar Colony,
Sidhra, Jammu.
7. **Kewal Krishan**
S/O Bodh Raj,
R/O H.No.A-1
Tawi Vihar Colony,
Sidhra, Jammu.
8. **Madan Lal**
S/O Bodh Raj,
R/O H.No.A-1
Tawi Vihar Colony,
Sidhra, Jammu.

- Petitioner no.1 to 8 through
their attorney holder,
Mohd Ashraf
9. Ashok Kumar,
S/O Ram Lal Sharma,
R/O H. No.A-1,
Tawi Vihar Colony,
Sidhra, Jammu
10. Jagdish Kumar Khajuria
S/O Tara Mani Khajuria,
R/O H. No.A-1,
Tawi Vihar Colony,
Sidhra, Jammu
11. Ram Kumar Khajuria,
S/O Tara Mani Khajuria,
R/O H. No.A-1,
Tawi Vihar Coloney,
Sidhra, Jammu
Petitioner no.9-11, through
their attorney holder,
Muzaffar Hussain,
12. Nisar Ahmed Ganai,
S/O Sh. Ghulam Ahmed Ganai
R/O Anantnag, Srinagar,
At present, H. No. 31-B, Lane No.11,
Tawi Vihar, Sidhra,
Tehsil and District Jammu.
Petitioner No.12 through
his attorney holder,
Syeda Begum

.....Petitioners

Through :- Mr. Jatinder Choudhary, Adv.

V/S

1. UT of J&K through
Revenue Commissioner/Secretary to Govt.,
Revenue Department,
Civil Secretariat, Jammu.
2. Divisional Commissioner, Jammu.
3. Deputy Commissioner, Jammu.
4. Collector Land Acquisition,
Assistant Commissioner Revenue,
Jammu.
5. Director Food Civil Supplies,
Consumer Affairs Department, Jammu.
6. Bharat Petroleum Corporation Ltd. (BPCL)
South Block, Bhau Plaza, Jammu
through Territory Manager.
7. Indian Oil Corporation Ltd. (IOCL)

- 22-O/B JDA Commercial Complex,
Rail Head, Jammu
through Chief Division Retail Sales Manager.
8. Hindustan Petroleum Corporation Ltd. (HPCL)
Opposite Hotel Asia, Gandhi Nagar, Jammu
through Deputy General Manager Retail.

.....Respondent(s)

Through :- Ms. Nazia Fazal, Adv., vice
Ms. Monika Kohli, Sr. AAG for R-1 to 5.
Mr. Jugal Kishore, Adv., for R-6 to 8

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

JUDGMENT

1. Petitioners, through the medium of this petition, claiming to be owners of land measuring total 40 kanals and 3 marlas comprising of khasra no.260 situate in village Pargalta Tehsil and District Jammu, have asserted that petitioner No.1 is the owner of land measuring 3 kanals 7 marlas, petitioner no.2, 3 kanals 6 marlas, petitioner no.3, 11 marlas, petitioners no.4 to 6, 1 kanal 13 marlas, petitioners no.7 & 8, 3 kanals 6 marlas, petitioner no.9, 2 kanal 10 marlas, petitioners no.10 & 11, 2 kanals 10 marlas, and petitioner no.12, 23 kanals, pleaded that respondent no.5-Director Food, Civil Supplies and Consumer Affairs Department, Jammu at the behest of respondents no.6 to 8-Bharat Petroleum Corporation Ltd. (BPCL), Indian Oil Corporation Ltd. (OICL) and Hindustan Petroleum Corporation Ltd. (HPCL), placed an indent to the Collector, Land Acquisition (ACR), Jammu on 15.11.2016 for acquisition for land measuring 924 kanals and 3 marlas, situated at village Pargalta and Kahna Chargal, Tehsil and District Jammu; that the acquisition proceedings under the Land Acquisition Act, Samvat 1990 were conducted and a draft award was prepared on 28.08.2019 by the Collector.

2. Petitioners alleged that the total land being acquired by the respondents as per the draft award under khasra no.260 was 36 kanals and 4

marlas figuring at serial number 4 & 5 of the apportionment statement and it was alleged that the land of the petitioners which is not the subject matter of the acquisition has also been taken over and fenced by the respondents, without any legal authority and statutory right, whatsoever, to do the same as it was never the subject matter of acquisition proceedings right from notification under section 4(1) of the J & K Land Acquisition Act, Svt. 1994 to the draft award; and that the petitioners filed applications to Tehsildar, Jammu and Naib Tehsildar Sidhra-Bajalta on 28.01.2021 requesting them to demarcate the land of the writ petitioners and in case the land falls within the fencing erected by the respondents, either to handover the vacant possession of the land to the writ petitioners or the same be acquired under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. It was further pleaded that despite lapse of suitable time, the respondents failed to demarcate the land of the writ petitioners, as such, writ petitioners being aggrieved of acts of omission and commission on behalf of the respondents were left with no other option, except to approach this Court through the medium of present writ petition. It was finally prayed that the respondents be commanded to demarcate the land of the petitioners and either to handover the vacant possession of the same to the petitioners by removing the fencing erected or to acquire the same by adopting the due process of law.

4. Pursuant to notice, the respondents no.6 to 8 filed their reply/objections contending therein that on identification of the sites by the Oil Industry to shift the existing oil depot situated at Channi near Jammu Railway Station since the year 2011, selected the land measuring 100-125 acre situated at village Pargalta and Kahna Chargal, Tehsil and District Jammu near Bajalta

Railway Station having sufficient railway frontage and having well road connectivity along with other technical, suitable parameters suitable for setting up oil depots; that the acquisition proceedings were initiated and completed under the provisions of Land Acquisition Act, Svt. 1990 for a total land measuring 555 kanals and 19 marlas with the notification under section 4(1) of the J & K Land Acquisition Act which was issued on 15.11.2016 and the possession of the land except for the land for which restraint order was passed by this Court was taken over by the respondents on 23.08.2019.

5. On a direction vide interim order dated 07.06.2024, supplementary affidavit was filed by Assistant Commissioner (Rev), Jammu stating that on application moved by Sayeda Begm, Muzaffar Hussain and Mohd. Ashraf, (attorney holders of petitioners) the Tehsildar Jammu was directed vide communication dated 24.02.2023 to furnish the factual report after spot and record verification; that the Tehsildar concerned vide communication dated 18.11.2023 reported that land measuring 23 kanals bearing khasra no.496/261 purchased by Nisar Ahmed Ganai S/O Gulam Ahmed Ganai was found within fencing done by the Oil Depot, though the same was not included in the execution award, as such, the Collector forwarded the report of the Tehsildar to the Territory Manager, BPCL, Jammu to conduct joint demarcation/verification with revenue official and intimate further course of action; and that till date no action or reply from BPCL has been received.

6. Learned counsel for the respondents no.6 to 8 during the course of hearing of this petition today submitted that land measuring 23 kanals under khasra no.496/261 purchased by one Nisar Ahmed Ganai was found within the fencing done by BPCL, though it was not included in the award dated 25.11.2022; and that after demarcation of the land comprising of khasra no.260,

it revealed that out of a total area of 53 kanals 4 marlas have been acquired by BPCL, 36 kanals 4 marlas have been acquired by BPCL for resitement of the oil depot; and that the balance 17 kanal also falls within the boundary wall of oil depot, without acquisition. Learned counsel submits that thus the land measuring 23 kanals had been missed out during acquisition proceedings of land by the Jammu Administration; and that the Bharat Petroleum Corporation Ltd. vide communication dated 03.02.2026 to the Assistant Commissioner (Rev), Jammu made a request for a joint demarcation and verification involving ACR, revenue authorities, FCS&CA and BPCL to be conducted at site at the earliest and both parcels of 23 kanals and 17 kanals of land be demarcated separately with clear identification and the necessary indents for acquisition of both the parcels of land be placed, immediately, within a time bound completion of acquisition proceedings, so that the entire land falling under the existing boundary wall is duly regularized. The communication is taken on record.

7. Petitioners have claimed whole of the unacquired land whose possession have been taken over by the respondents-Oil Corporation, falls under Khasra No. 260 of village Pangalta, whereas, Oil Corporations have stated that the land of petitioner No. 12 measuring 23 kanals comprises of Khasra No. 496/261 of village Pargalta. Be that as it may, the land of all the petitioners measuring 40 kanals whose possession was taken over by the respondents-Oil Corporations unauthorizedly and is required to be acquired in accordance with law or in the alternative to restore its vacant possession to the land owners, at the earliest.

8. Having regard to the pleadings, submissions made at the Bar and the communications on the subject, it has been found that at the instance of respondents no.6, 7 and 8, the Petroleum Corporations, land was identified at

village Pargalta Tehsil and District Jammu for being acquired to set up resitment of oil depots; that a total land measuring 924 kanals and 3 marlas was acquired, however, during the fencing of the land, two parcels of land measuring 23 kanals comprising of khasra no. No. 496/261 owned by petitioner No. 12 and measuring 17 kanals comprising of Khasra No. 260 of village Pargalta Tehsil and District Jammu owned by other petitioners was also taken over and enclosed in the fencing, though these parcels of land did not form part of the acquisition proceedings or acquired land.

9. Since with the demarcation of the land of the petitioners, it has been found that the petitioners' land has been enclosed with the fencing in the acquired land without any legal acquisition and payment of compensation to the land owners, the respondents-Oil Corporations have now decided to take up the matter with the Collectorate for acquisition of two parcels of land measuring 23 kanals (Survey No. 496/261) and 17 kanals (khasra no.260) which came under their possession, without being acquired the same and as such, the matter has been taken up for submission of indent to the Collectorate, through the Directorate of Food, Civil Supplies and Consumer Affairs Department, Jammu.

10. Viewed thus, no further adjudication of the matter is required, as the respondents-Oil Corporations have fairly conceded after the demarcation of the land of the petitioners, that their land measuring 40 kanals having come under their possession, is intended to be acquired in accordance with law.

11. In this background, this petition is disposed of, with the following directions:

- I. The indenting agency shall place an indent with the Collectorate within a period of one month from the date a certified copy of this order is made available to them, to acquire 40 kanals of

land of the petitioners already occupied/encroached by the respondent Nos. 6 to 8.

II. The Collector shall proceed with the matter in accordance with law to acquire the land as per the applicable acquisition law, as on date.

12. The petition stands disposed of along with connected application(s) on the above terms. No order as to costs.

(M A Chowdhary)
Judge

JAMMU
08.04.2026
Surinder

