

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

MA No. 174/2015

Reserved On: 10th of September, 2026.
Pronounced On: 26th of September, 2026.
Uploaded On: 26th of September, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

1. **Masood Ali Parry**
S/O Qasim Ali Parray
R/O Nowpora, Srinagar
2. **Mubashir Shuja Mir**
S/O Abdul Rehman Mir
R/O Galwanpora, Budgam
3. **Mohammed Qasim Malla**
S/O Ghulam Mohammed Malla
R/O Diwar Yakhmanpora,
Tehsil Pattan, District Baramulla
Appellants 1 and 3 through their
Attorney Appellant No.2.

... Appellant(s)

Through: -

Mr Shafqat Nazir, Advocate with
Ms Atufa Farooq, Advocate.

V/S

1. **State of Jammu & Kashmir (now UT),**
Through Commissioner/ Secretary to Government,
Revenue Department, Civil Secretariat,
Srinagar.
2. District Collector, Baramulla.
3. Collector Land Acquisition ACR,
Baramulla.
4. Director General Armed Police,
J&K, Srinagar.
5. Commandant 10th Battalion IRP,
Parihaspora, Pattan.
6. Incharge Armed Police Complex,
Dewar Yakhmanpora,
Pattan, Baramulla.

... Respondents

Through: -

Mr Mohsin-ul-Showkat Qadri, Sr. AAG with
Ms Nadiya Abdullah, Assisting Counsel.

Clubbed With:

RFA No. 11/2020

1. **State of Jammu & Kashmir (now UT),**
Through Commissioner/ Secretary to Govt.,
Revenue Department, Civil Secretariat,
Jammu/ Srinagar.
2. District Collector, Baramulla.
3. Collector Land Acquisition
(ACR), Baramulla.
4. D. G. Armed Police,
J&K, Jammu/ Srinagar.
5. Commandant 10th Bn. IRP,
Parihaspora, Pattan.
6. In-charge Armed Police Complex,
Diwar Yakhmanpora, Tehsil Pattan,
District Baramulla.

... Appellant(s)

Through: -

Mr Mohsin-ul-Showkat Qadri, Sr. AAG with
Ms Nadiya Abdullah, Assisting Counsel.

V/S

1. **Masood Ali Parray**
S/O Qasim Ali Parray
R/O Nowpora, Srinagar
2. Mubashir Shuja Mir
S/O Abdul Rehman Mir
R/O Galwanpora, Budgam
3. Mohammad Qasim Malla
S/O Gh. Rasool Malla
R/O Diwar Yakhmanpora,
Tehsil Pattan, District Baramulla.

... Respondents

Through: -

Mr Shafqat Nazir, Advocate with
Ms Atufa Farooq, Advocate.

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

(JUDGMENT)

01. Since, in both these cross appeals Judgment dated 25th of June, 2015 passed by the learned Principal District Judge, Baramulla in a Land Acquisition Reference filed under Section 18 of the J&K Land Acquisition Act titled **“Masood Ali Parray & Ors. v. State of J&K and Ors.”** is under challenge, therefore, it is proposed to decide both the appeals by this common Judgment.

02. Briefly stated, the facts leading to the filing of these appeals are that, consequent upon the request made by Commandant 10th BN, IRP, Parihaspora for acquisition of land measuring 20 Kanals and 12 Marlas situate in estate Diver Yakhmanpora, Tehsil Pattan and District Baramulla covered under Survey Nos. 884, 895, 928, 937/ Min, 932, 896 and 898, the Collector Land Acquisition, Baramulla/ Assistant Commissioner (Revenue), Baramulla came to pass an **Award dated 25th of March, 2010**, whereby the aforesaid land was acquired for the public purpose of construction of Armed Police Complex at Diver Yakhmanpora, Tehsil Pattan, District Baramulla, against the compensation of a sum of ₹82,92,500/- (rupees eighty two lacs, ninety two thousand and five hundred) only.

03. Feeling dissatisfied with and aggrieved of the aforesaid Award passed by the Collector Land Acquisition (Revenue), Baramulla, the land owners (Appellants in MA No. 174/2015 and Respondents in RFA No. 11/2020) filed an application under Section 18 of the Jammu & Kashmir Land Acquisition Act, before the District Collector/ Deputy Commissioner, Baramulla, who made Land Acquisition Reference to the Principal District Court, Baramulla.

04. The learned Principal District Court, Baramulla (for short “Reference Court”), entered into reference by virtue of Civil Reference No. 13 on 5th of May, 2010. Accordingly, on the basis of pleadings of the parties, the Reference Court framed the following two issues:

“1. Whether the compensation for the acquired land has not been correctly fixed and awarded by the Collector? If yes, what is the quantum of compensation to which the petitioners are entitled to? OPP; and

2. To what relief the Petitioners are entitled to? OP Parties.”

05. The Reference Court, thereafter, vide impugned Judgment dated 25th of June, 2015, while deciding the aforesaid issues, observed that taking into consideration the existing law on the subject, the summary of oral and documentary evidence led, it is clear that the Collector has not correctly assessed the quantum of market value and the compensation payable thereof, and that, in view of the productivity and potentiality of the land, the developmental activities in the area, the small distance of the land from the National Highway and the tremendous importance of the tourists and commercial activities, as deposed by the witness-retired Tehsildar, the compensation amount of ₹6.50 lacs per Kanal inclusive of fruit bearing trees was held to be the appropriate rate on which the Petitioners' land should be assessed. On the basis of the aforesaid observations, the Reference Court decided the issues in favour of the Petitioners (Appellants in MA No.174/2015) and against the Respondents (Appellants in RFA No. 11/2020) and granted the following relief in favour of the Petitioners (Appellants in MA No. 174/2015):

“1. That the Respondents shall pay compensation to the Petitioners from whom the land has been acquired at the rate of Rs.6,50,000/- per kanal inclusive of fruit bearing trees plus *jabirana* @ 15% together with interest @ 7% per annum on the enhanced amount per kanal from the date of possession of the acquired land; and

2. The amount of compensation already received by the petitioners shall be deducted from the compensation allowed to them in under noted reference.”

06. Both the sides litigating before the Reference Court, i.e., the land owners (Petitioners before the Reference Court) and the Government (Respondents before the Reference Court), being aggrieved and dissatisfied with the Judgment passed by the Reference Court, filed two separate appeals against the said Judgment.

07. The land owners have filed MA No. 174/2015, whereby they are seeking setting aside of the impugned Judgment passed by the Reference Court and are claiming enhancement of compensation to ₹15.00 lacs per kanal and also providing jobs to them. They have pleaded that the Reference Court did not appreciate the evidence which they led during trial and furnished sufficient proof in the form of depositions of witnesses and documents/ letters/ reports of competent authorities, by virtue of which they had established beyond any shadow of doubt that the prevalent market rate of per kanal of land in the area was ₹.10.00 lacs, as on the date of acquisition of their land and that same was also not rebutted by the other side, but even then, the said important fact has been ignored by the Reference Court, while passing the impugned Judgment; that the Appellants are also entitled to enhancement of compensation, for the reason that the Reference Court has not considered the situation and commercial utility of the land, though the Appellants have proved the same to the hilt; that the land in and around the acquired land of the Appellants has been in use for commercial activities since last so many decades and with the development of the State (now UT), the land of the Appellants could have fetched considerable amount and its market value could have raised to tremendous heights in near future, however, this important aspect of the matter has also been overlooked by the Reference Court by not fixing the just compensation.

08. On the other hand, the Government has preferred RFA No. 11/2020 to assail the impugned Judgment passed by the Reference Court, claiming that the compensation awarded is on the higher side. They have pleaded that no such evidence, proof or record was produced by the Claimants to demonstrate that the cost of the land in question would be more than what was fixed by the Collector; that the land was proposed to be acquired in 2007 and formally its possession was taken over in the year 2010 when the Award was passed by the Collector, thereby fixing the rate as was prevalent at that point of time; that the compensation was fixed by

the Collector after conducting proper enquiry and following due procedure as prescribed by the law/ rules governing the field; that the rates/ compensation fixed by the Reference Court, vide impugned Judgment, are/ is highly exorbitant/ inflated, besides the interest awarded is not permissible, having regard to the facts and circumstances of the case.

09. Heard learned Counsel for the parties, perused the pleadings available on record and considered the matter.

10. The Collector had awarded compensation @ ₹3.50 lacs per Kanal for the acquired land in question and, on a reference made to the Reference Court, the rate of compensation was enhanced from ₹3.50 lacs to ₹6.50 lacs per Kanal. Both the parties, having been dissatisfied and aggrieved of the rate of compensation awarded by the Reference Court, have filed the above titled two cross appeals.

11. As per Section 23 of the J&K Land Acquisition Act, following are the considerations to be taken note of by the Court for determining the amount of compensation to be awarded for the land acquired under the Land Acquisition Act:

“First, the market value of the land at the date of the publication of the declaration relating thereto under Section 6;

Second, the damage sustained by the person interested by reason of taking of any standing crop or trees which may be on the land at the time of the Collector’s taking possession thereof;

Third, the damage (if any) sustained by the person interested at the time of the Collector’s taking possession of the land by reason of severing such land from his other land;

Fourth, the damage (if any) sustained by the person interested at the time of the Collector’s taking possession of the land by reason of the acquisition injuriously affecting his other property moveable or immoveable in any manner, or his earnings;

Fifth, if in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

Sixth, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under Section 6, and the time of the Collector's taking possession of the land."

In addition to the market value of the land, as prescribed hereinabove, the Court, in every case, has to award a sum of fifteen per centum on such market value in consideration of the compulsory nature of the acquisition.

12. On receiving indent for acquisition of the land measuring 20 Kanals and 12 Marlas falling in Survey Nos. 884, 895, 928, 937/ Min, 932, 896 and 898 situate in Diver Yakhmanpora, estate of Tehsil Pattan, District Baramulla and issuance of requisite notification, the case was tabled for finalization, through private negotiations, however, due to exorbitant rates demanded by the land owners, it was decided to process the case under compulsory land acquisition method. In view of above, the market value of the land acquired has to be ascertained on the basis of the prevalent rate at the time of publication of notice under the provisions of Section 6 of the J&K Land Acquisition Act which, in the present case, had been issued by the Deputy Commissioner, Baramulla on 19th of December, 2009.

13. In order to buttress their claim for seeking enhancement of compensation with respect to their landed property, the land owners had brought on record oral as well as documentary evidence. They examined Fida Hussain Reshi, Mukhtar Ahmad Malla, Mohammad Akbar Khawaja, Sheikh Ghulam Rasool, Mohammad Akbar Mir, Nasrullah Shah and Syed Mubashir Sajad, as their witnesses.

14. **PW-Fida Hussain Reshi** had stated that, at the time of acquisition of the land, the prevalent market rate was ₹14-15 lacs per Kanal and that the acquired land was plain bearing fruit and non-fruit trees and was situated about half a Kilometer from his residence. **PW-Mukhtar Ahmad Malla** stated that the Government had taken over land from farmers with small holdings, instead of taking it from a prominent politician

and religious leader, Molvi Ifitkhar Hussain Ansari, who had hundreds of Kanals of land in the area and that, at the time of acquisition of the land, the market rate was about ₹13-14 lacs per Kanal. **PW-Mohammad Akbar Khawaja** also deposed in the manner PW-Mukhtar Ahmad Malla had deposed.

15. **PW-Sheikh Ghulam Rasool**, a retired Tehsildar and a resident of Lar, Ganderbal, stated that he had served as Tehsildar, Pattan in the year 2009 and during his posting, the notification for acquisition of the land for Armed Police Headquarter had been issued; that he had inspected the land which was plain as well as sloppy, bearing fruit as well as non-fruit trees; that the market value of the land in the area was higher in view of SSM group of Colleges, archeological buildings and a vast chunk of land in the name of Molvi Ifitkhar Hussain Ansari; that the sale deeds were shown of less value in the area, there being no Government ceiling on the market rate and that, as per his report sent to the Collector, the market rate of the land was about ₹4.00 lacs per Kanal on an average, though people in the area had indicated that the market rate was around ₹10.00 lacs per Kanal and one of the persons had shown an agreement to sell with regard to land comprising Survey No. 895 attested by Notary, proposed to be sold @ ₹10.00 lacs per Kanal.

16. **PW-Mohammad Akbar Mir** stated that he, as per sale agreement dated 17th of September, 2006, had proposed to sell land measuring 02 Kanals and 03 Marlas to one Mubashir Sajad @ ₹9.10 lacs per Kanal and produced the copy of the sale agreement. **PW-Nasrullah Shah** stated that he, as per sale agreement dated 29th of April, 2006, had proposed to sell land measuring 02 Kanals comprising of Survey No. 876 against a consideration of ₹8.80 lacs per Kanal.

17. Appellant No.2 in MA No. 174/2015, namely, **Mubashir Shuja**, who is also Attorney Holder of other Appellants in the said MA, deposed that his land had also been acquired along with land of the other

inhabitants and that he has been given Power of Attorney by the other land owners to prosecute the case; that the market rate of the land in the area from the years 2006-2009 was about ₹8.50 lacs to ₹10.00 lacs per Kanal; and that the Collector had granted unjust compensation as against the prevalent market rate of ₹10-13 lacs per Kanal, which has now exceeded to ₹20.00 lacs per Kanal.

18. This is the sum and substance of the evidence led by the land owners. No evidence, however, was led by the other side.

19. It was the contention of the land owners, in their evidence, that there has been inflation in the cost of land at Parihaspora because of location of SSM College in its vicinity and its extension to a large area, being the capital of Kashmir in olden days and that during the reign of Mufti Mohammad Syed in 2002-2005, it was proposed that the capital of Kashmir shall be shifted to Parihaspora, as such, on these counts, the cost of land had gone very high. It was further pleaded by the land owners that the place where the land in question was acquired by the Respondents is famous for archeological monuments, besides, the land being highly valued as the same bears fruit growing trees which was the source of livelihood of the land owners. They had also pleaded that the land in question was plain and not *banjar*, and that the witnesses examined by the land owners deposed that the rate of the land in the year was ₹14-15 lacs per Kanal, however, one of the witnesses deposed that in the year 2006, the land would cost ₹8.80 lacs per Kanal.

20. Apart from the oral evidence, the land owners had also placed on record documentary evidence in the form of agreements to sell. In one of the agreements, wherein one witness, namely, Nasrullah, had agreed to purchase 02 Kanals of land @ ₹8.80 lacs per Kanal at Dewar Yakhmanpora on 29th of April, 2006. Another sale agreement pertained to 02 Kanals and 03 Marlas of land situate in the same area, proposed to be sold for a consideration of ₹9.10 lacs per Kanal in the year 2006. In the third sale

agreement, 10 Marlas of land situate in the same area, as that of the present land owners, was proposed to be sold for an amount of ₹5.00 lacs in the year 2009.

21. The Reference Court, while evaluating the evidence available on record, observed that the oral statements had given exaggerated figures to the extent of ₹14-15 lacs per Kanal in the area, as against the rate awarded by the Collector, and did not find the same as reliable, except statement of one witness, who had deposed that the rate of the land for the area in the vicinity of the acquired land was ₹8.80 lacs per Kanal. The Reference Court also considered the sale agreements having been made in the years 2005 and 2006 before the acquisition of the land in question and, while deciding issue No.1, came to the conclusion that in view of the productivity and potentiality of the land, the developmental activities in the area, the small distance of the land from the National Highway and the tremendous importance of the tourists and commercial activities, as reported by a witness-retired Tehsildar, examined by the land owners, the compensation amount of ₹6.50 lacs per Kanal, inclusive of fruit bearing trees, was awarded.

22. Having regard to the parameters contained in Section 23 of the J&K Land Acquisition Act, 1990, in terms of which the subject land had been acquired, the rates are to be determined on the basis of the market value of the land to be assessed in the period when notification under Section 6 of the Act was issued. Admittedly, in the present case, the aforesaid notice had been issued in the year 2009, as such, the rates of the acquired land are to be determined relating to the year 2009.

23. Although, the witnesses examined by the land owners have made statements that the prevalent market rate of the land in question was in the range of ₹14-15 lacs per Kanal, however, the same could not be substantiated by them without any sale deed executed on such rates with regard to any land in the vicinity of the acquired land. The land owners

have succeeded to place on record certain sale agreements and examined some of the persons who had executed these agreements with regard to some land in the vicinity of the acquired land, however, none of the said agreements, even if they are relied upon, has shown the land to have been sold for the rates which are claimed by the land owners.

24. The Collector had determined the rates of the land after spot inspection and having regard to the location of the land being 3-4 KMs away from the highway and keeping in view the report of the revenue officers with regard to prevalent market rate for the last three years in the area and awarded compensation @ ₹3.50 lacs per Kanal.

25. The Reference Court, having regard to the oral and documentary evidence led by the land owners and particularly keeping in view the statement of PW-Sheikh Ghulam Rasool, a retired Tehsildar, who at the relevant point of time was working as the jurisdictional Tehsildar and had stated that though the market rate of the land as per record was about ₹4.00 lacs per Kanal on an average, however, the people had indicated that the market rate was around ₹10.00 lacs per Kanal, raised the compensation from ₹3.50 to ₹6.50 lacs per Kanal.

26. In the considered opinion of this Court, the Reference Court has determined just compensation on the basis of evidence led before it, having regard to all the parameters, i.e., location, productivity, kind and the prevalent market rate based on the agreements to sell produced by the land owners and there being no evidence in rebuttal.

27. In both the appeals filed by the contesting parties, the learned Counsel appearing for the parties, have not succeeded to persuade this Court as to how the rate fixed by the Reference Court was not proper, particularly in the face of the documentary evidence in the shape of sale agreements relating to the proximate time of the acquisition of the land in question by the Collectorate.

28. The Reference Court has rightly discussed the evidence brought on record by the land owners which remained unrebutted by the other side and, rightly so, did not believe the exaggerated statements made by the land owners and their witnesses with regard to rate of land of ₹14-15 lacs per Kanal, without any documentary evidence. Therefore, the Reference Court has taken a correct view in the matter, based on the documentary evidence to enhance the rate of compensation awarded by the Collector from ₹3.50 lacs to ₹6.50 lacs per Kanal.

29. Having regard to the foregoing reasons and the discussion made hereinabove, the Appellants in both these appeals have failed to show any good ground to either reduce or enhance the rate fixed by the Reference Court with respect to the land in question. Besides, the evidence available on record persuades this Court to take the same view as has been taken by the Reference Court, in terms of the impugned Judgment.

30. Viewed thus, this Court is of the considered opinion that the Reference Court had rightly fixed the rate of compensation with respect to the land to be awarded to the land owners while deciding issue No.1, as such, the impugned Judgment passed by the Reference Court does not call for any interference by this Court, invoking appellate jurisdiction. The impugned Judgment passed by the Reference Court is, thus, upheld

31. Resultantly, both these appeals are **dismissed**. Pending application(s), if any, shall stand **disposed** of, accordingly. Interim direction(s), if any, shall stand vacated in both the appeals.

32. Registry to place a copy of this Judgment on both these connected files and a copy thereof be forwarded to the Reference Court, for information and record.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

September 26th, 2026

"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes.