

Serial No.173
Supp. Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

WP(C) No. 753/2023.

MST AMINA BANO (SENIOR CITIZEN).

.....Petitioner(s)

Through:
Mr. Mohammad Yawar Dar, Adv.

Versus

UNION TERRITORY OF J&K AND ORS. (IRRIGATION AND FLOOD CONTROL DEPARTMENT).

.....Respondent(s)

Through:
*Mr. Jehangir Ah. Dar, GA with
Ms. Shaila Shamim, Adv.*

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

**ORDER
29.04.2026**

1. The petitioner through the medium of the instant petition has sought the following relief:

“By issuance of an appropriate writ, order or direction, the Hon’ble Court may be pleased to issue Mandamus to the respondents thereby commanding them not to cause any kind of interference with the physical peaceful possession of the land belonging to the petitioner comprising of garden/orchard measuring 12 Kanals and 14 Marlas having more than 300 apple bearing trees falling under Khasra No. 649 situated at Khan Mohalla Gudar Kulgam.

By issuance of an appropriate writ, order or direction, the Hon’ble Court may be pleased to issue Mandamus to the respondents and direct them not to disturb the physical possession of the petitioner with respect to garden/orchard measuring 12 Kanals and 14 Marlas having more than 300 apple bearing trees falling under Khasra No. 649 situated at Khan Mohalla Gudar Kulgam”.

2. From a perusal of the writ petition, it appears that the pleadings of the petitioner are vague and lack specific averments indicating the exact extent of land acquired by the respondents or the precise land for which compensation is alleged to have not been paid. In the

absence of such material particulars, no definite finding can be recorded in the present petition.

3. However, Mr. Jahangir Ahmad Dar, Learned Government counsel, appearing on behalf of respondents, has clarified that 33 feet of proprietary land belonging to the petitioner was acquired for the construction of the Banimulla Canal, for which compensation has already been paid. It has further been stated that there is no intention to acquire any additional land of the petitioner, and in the event any such acquisition is contemplated in the future, the same shall be carried out strictly in accordance with law.
4. Learned Government Advocate has further submitted that the petitioner has encroached upon land belonging to the Irrigation Department, measuring approximately 19 feet in width and extending over a length of 400 meters, which is evident from the record placed before the Court. It is submitted that the respondents intend to initiate appropriate proceedings for retrieval of the said land. Furthermore, it has also been brought to the notice of the Court that the petitioner has admitted such encroachment and has furnished an undertaking to remove the same; however, the encroachment has not yet been removed.
5. In view of the statement made by learned counsel for the respondents and the material placed on record, the respondents are at liberty to proceed against the petitioner for retrieval of the land allegedly encroached upon, strictly in accordance with law. However, it is made clear that the petitioner shall not be dispossessed or evicted from his proprietary land.
6. From the record, it is evident that compensation for the land acquired for the construction of the canal has already been paid to the petitioner. In the absence of any specific pleadings or material to demonstrate non-payment of

compensation, no cause of action survives in favour of the petitioner.

7. Accordingly, the petition is found to be devoid of merit and is ***dismissed*** along with all connected applications. Interim directions, if any, shall stand vacated.
8. The record which has been produced before this Court by Mr. Jehangir Ah. Dar, learned GA, is taken on record.

(WASIM SADIQ NARGAL)
JUDGE

Srinagar
29.04.2026
Sakeena

