

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

**WP(C) 1010/2026
CM(2642/2026)**

Reserved on: 8th May, 2026.

Pronounced on: 14th May, 2026

Uploaded on: 15th May, 2026

Whether operative part or full
judgment has been pronounced: **Full**

Autar Krishan Dhar, Age 65 years

...Petitioner(s)

S/o Late Shri Jagger Nath Dhar

R/o Lane No. 22, Block 134, Flat No. 17,

Jagti Township, Nagrota, Jammu.

Through: M/s Sumir Pandita and Imran Ahmad Rather,
Advocates (Through Virtual Mode).

Vs.

1. **Union Territory of Jammu & Kashmir, ...Respondent(s)**
through Principal Secretary, Revenue
Department, Civil Secretariat,
Jammu/Srinagar.
2. Deputy Commissioner, Kupwara.
3. Additional Deputy Commissioner,
Handwara.
4. Chief Engineer, Jal Shakti Department,
Kashmir.
5. Executive Engineer, Jal Shakti Division,
Handwara.
6. Collector (Land Acquisition), Kupwara.

Through:

CORAM:

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

JUDGMENT

1) Through the medium of the instant petition filed under Article 226 of the Constitution of India, the petitioner is seeking the following reliefs:

- (I) *Quash and set aside the Private Negotiation Committee (PNC) proceedings dated 05-02-2019, whereby the compensation for the land of the petitioner was purportedly fixed as Rs. 4,78,000/-, as being arbitrary, illegal and in violation of the mandatory provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and in violation of the principles of natural justice.*
- (II) *With a prayer to command the respondents to initiate fresh and proper land acquisition proceedings in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and to determine the market value and compensation for the land of the petitioner measuring 1 kanal and 4 marlas under Survey no. 133, Village Villagam, Doolipoora, Tehsil Handwara, District Kupwara, strictly in accordance with Section 26 to 30 of the said Act.*
- (III) *With a further prayer to command the respondents to pay to the petitioner reasonable rent/rental compensation for unauthorized use and occupation of his land measuring 1 kanal and 4 marlas from the year 2003 till the date of final payment of compensation, computed on the basis of the prevailing market rental rates.*
- (IV) *Pass such other and further orders, writs, or directions as this Hon'ble court may deem fit and proper in the facts and circumstances of the case and in the interest of justice. "*

BRIEF FACTS:

2) The factual matrix of the case is that the petitioner claims originally to be a resident of Village Villagam, Doolipoora, Tehsil

Handwara, District Kupwara, who migrated to Jammu in the year 1990 due to adverse security conditions in the Valley. He claims to be the owner of land measuring 4 Kanals and 5 Marlas under Survey No. 133 at Village Villagam Doolipoora, Tehsil Handwara. According to him in 2003, the respondent Jal Shakti Department occupied 1 Kanal and 4 Marlas of the said land for a water reservoir without any formal acquisition process or notice.

3) Aggrieved of the same, the petitioner filed a writ petition before the Jammu Bench of this Court bearing OWP No. 456/2005, which was disposed of on 03-04-2008 directing the respondents to consider the case of the petitioner for release of rent as well as compensation of the land in accordance with law. However, since, the respondents did not choose to comply the order dated 03-04-2008, the petitioner filed a contempt petition, bearing CPOWP No. 46/2009. During the pendency of the said contempt proceedings, the respondents filed a statement of facts claiming that an amount of Rs. 3,00,000/- (Rupees Three Lakhs Only) had been deposited with the Additional Deputy Commissioner/ Collector, Handwara, vide Cheque No. 17808,000051000 dated 25-09-2013, on the basis of which statement of facts, the contempt petition was closed by the Court vide order dated 10-09-2018, in the absence of the petitioner.

4) The petitioner further states that aggrieved of the continued inaction and failure of the respondents to provide lawful compensation, he filed a representation before the Governor's Grievance Cell, Jammu, following which the OSD to Advisor on 14-12-2018 directed the Deputy Commissioner, Kupwara to take necessary action on merit and to redress the grievance of the petitioner. Pursuant to the said representation filed in December 2018, a Private Negotiation Committee (for short PNC) meeting was held on 05-02-2019, whereby the compensation was fixed at Rs.

4,78,000/-. The petitioner claims this meeting was conducted without his knowledge.

5) The petitioner further submits that thereafter he was actively pursuing his case with the respondents, during the course of which, various inter se communications were issued by the respondents, and which finally culminated in communication dated 04-07-2025 issued by the Additional Deputy Commissioner, Handwara to Deputy Commissioner, Kupwara, wherein it was revealed for the first time that a notice under Section 4(1) was purportedly issued by the Collector on 19-01-2019 and the said file was submitted vide No. ADCH/LAS/830-31 dated 19-01-2019 for conducting a PNC. He further submits that the PNC was held on 05-02-2019 without informing the petitioner; and that a lump sum rate of Rs. 4,78,000/- was fixed for the land in question. The petitioner finally submits that his request to provide him a copy of the minutes of the PNC meeting was also not granted by the respondents, and he ultimately obtained the same under the Right to Information Act.

LEGAL ANALYSIS:

6) *Heard and considered.*

7) The basic contention of the petitioner is that a part of his land has been taken over by the respondent Department without his knowledge and at his back without duly compensating him and as such, the respondent Department deserves to be directed to initiate proceedings for acquiring the said piece of land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short the Act of 2013) with a further direction to pay him the rentals / compensation at the prevalent market rate. The petitioner also seeks quashing and setting aside of the decision of the PNC wherein the compensation was fixed at Rs. 4,78,000/-.

8) It is worth to be noted at the very outset that the petitioner on his own showing has stated that he came to know about the acquisition of his land in the year 2005. This can be corroborated from the fact that the petitioner in the year 2005 had filed a writ petition before the Jammu Bench of this Court in which he not only claimed rentals and compensation for the said piece of land which was acquired by the respondent intending Department, but also sought employment on the same basis. At the time of the hearing of that petition, even though, the petitioner chose not to press the relief with regard to employment, yet, the writ petition, as noted hereinabove, was disposed of with a direction to the respondents to consider the case of the petitioner for release of rent as well as compensation of the land in accordance with law vide order dated 03-04-2008.

9) Subsequently, in the year 2009, he preferred a contempt petition for seeking implementation of direction passed by this Court vide its order dated 03-04-2008 which was registered as CAO(OW) 47/2009.

10) From a bare perusal of the material placed on record by the petitioner, it appears, that the petitioner chose not to pursue the said contempt petition, after the respondents had filed their compliance report and taken a specific stand that an amount of Rs. 3,00,000/- had already been deposited by them before the Collector concerned. The contempt petition was thereafter closed in the light of stand taken by the respondents, vide order dated 10-09-2018, albeit, the petitioner was not present on the said date. Interestingly, the petitioner did not choose to revive the said contempt proceedings thereafter, which indicates that he was satisfied that the order dated 03-04-2008 passed in the writ petition stood complied with. Had that not been the case, the petitioner would have chosen to seek legal remedy against the order dated 10-09-2018 passed in the contempt

petition or else the order passed by the learned writ court dated 03-04-2008.

11) The record reveals that the petitioner moved yet another representation before the Governor's Grievance Cell dated 09.07.2025. It is pertinent to mention here that there is no explanation provided by the petitioner in his writ petition as to why he chose to abandon the process of law he had set in motion before this Court and then approached the Governor's Grievance Cell. In any case, the *inter se* communications which have been placed on record reveals that a PNC meeting was held where the amount of earlier settled at Rs. 3,00,000/- lacs was increased to Rs. 4,78,000/-. The said amount was not accepted by the petitioner, as is evident from the communication dated 04-07-2025, which clearly states, that the petitioner refused to accept even a single penny out of the enhanced amount of Rs. 4,78,000/- as fixed by the PNC. All the aforesaid facts clearly demonstrate that the petitioner was very actively pursuing the matter, that too, with the sole object of increasing the amount of compensation payable to him.

12) Now, the petitioner has sought to challenge the fixation of the enhanced amount of Rs 4,78,000/- by the PNC after a gap of 7 years on the ground that he was not in know of the fact that PNC had called a meeting and the same was held behind his back. He has also gone to the extent that the amount so fixed therein is inadequate, and in such circumstances the PNC decision needs to be quashed being violative of the mandatory provisions of the Act of 2013 and the respondents need to be directed to hold a *de novo* acquisition in terms of Act of 2013.

13) This Court after perusing the entire record and the consistent stand of the petitioner all along is of the view that the petitioner under a calculated design and scheme is in a way trying to entangle

the respondents in a legal battle. Upon coming to know that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short the Act of 2013) had come into force in the UT of J&K upon the coming into force of the J&K Reorganization Act, 2019 (for short the Act of 2019), the petitioner, apparently, seeking unjust enrichment, in the light of the aforementioned Act of 2013 which provides for a higher compensation as against the J&K Land Acquisition Act. 1990 Svt. (for short the Act of 1990), and seeks *de novo* acquisition proceedings under Act of 2013.

14) As has been admitted by the petitioner himself, acquisition proceedings had been started in January 2019, when the notice under Section 4(1) of the Act of 1990 Svt. had been issued (before the coming into effect of the Act of 2013). The PNC meeting itself was held in February 2019. If the petitioner was aggrieved of the quantum of compensation which was fixed by the respondents in the PNC, he was well within his rights to seek reference against the awarded amount in terms of the said Act. However, he waived of the said remedy and now, seeks quashing of the PNC meeting on the ground that he was not associated with it, on false and flimsy grounds. This stand of the petitioner in the instant petition is contrary to record.

15) The petitioner right from the year 2005 had been pursuing the matter before this Court. He even made representations in the year 2018 and thereafter. Thus, as noted above the petitioner had been actively pursuing and contesting the matter with the authorities all these years. Yet, the petitioner pleads ignorance of the PNC meeting having taken place and even the notice under Section 4 (1) having been issued. The petitioner cannot plead hot and cold in the same breath. He is estopped under law to plead that he was pursuing the matter with the respondents all along and yet, on the other hand, he

did not know that the notice under Section 4(1) had been issued or that a PNC meeting had taken place. It seems a far-fetched theory to say the least. As stated hereinabove, now the petitioner, realizing that he has chosen not to seek reference against the award of the PNC, has chosen to circumvent the statutory scheme of the Act of 1990 Svt. by invoking the jurisdiction of this Court by calling into question the PNC meeting and the decision taken therein.

16) It needs to be stated here that the Act of 1990 is a self-contained code, providing for remedies that too time limited. Having chosen not to invoke that remedy, the petitioner now cannot be allowed to seek quashment of the PNC meeting on the grounds pleaded now. Allowing him to do so would amount to doing indirectly what is not permitted to be done directly, and such a practice cannot be countenanced in law.

17) Further, the petitioner seeks a direction that the respondents be directed to initiate a de novo acquisition proceedings under the Act of 2013. In essence what the petitioner seeks is the retrospective application of the Act of 2013. Admittedly, the land had been taken over by the respondent intending Department in the year 2003. Even an amount of Rs. 3,00,000/- was stated to have been deposited before the Collector in 2013, based upon which fact, as stated hereinabove, the contempt proceedings were also closed. Furthermore, an enhanced award of Rs. 4,78,000/- was also fixed by PNC in February 2019. Thus, all proceedings were carried out by the respondent under the Act of 1990 Svt. The petitioner having chosen not to pursue legal statutory remedies, now cannot insist upon the retroactive application of the Act of 2013 to his case.

18) In this regard it would also be expedient to refer to the decision of the Hon'ble Supreme Court in **Bharat Petroleum Corporation Limited (BPCL) & Ors. vs. Nisar Ahmad Ganai & ors.** (2022) SCC

Online SC 1388 wherein the Government had initiated acquisition of land in Jammu under the Jammu and Kashmir Land Acquisition Act, 1990 for relocation of petroleum depots. The notification under Section 4 and declaration under Section 6 of the Land Acquisition Act, 1990 were issued but before the award could be passed, the Act stood repealed after the Jammu and Kashmir Reorganisation Act, 2019 came into force. The land owners filed writ petition before this Court, contending that since no award had been passed and possession had not been taken, they are entitled to compensation under Section 24(1)(a) of the Land Acquisition Act, 2013. This Court accepted the plea and directed payment under the 2013 Act which was challenged before the Hon'ble Supreme Court.

19) The Hon'ble Supreme Court held that Section 24(1)(a) of the 2013 Act applies only to acquisitions initiated under the Land Acquisition Act, 1894 and not to acquisitions under the J&K State Land Acquisition Act, 1990, even if the provisions are *pari materia*. It further held that rights and liabilities under the repealed J&K Act stood saved by Clause 2(13) of the Jammu & Kashmir Reorganisation (Removal of Difficulties) Order, 2019 read with Section 6 of the General Clauses Act. The Court also observed that landowners cannot claim benefit of delay caused by interim court orders obtained during litigation. Accordingly, the High Court judgment directing compensation under the 2013 Act was set aside, though the writ petitions were remanded for consideration on other grounds. For the facility of reference, relevant part of judgment mentioned *supra* is reproduced as under:

"Therefore also, the original writ petitioners – land owners shall not be entitled to enhanced amount of compensation under Section 24(1)(a) of the Act, 2013 on the ground that as the award has not been declared they shall be entitled to compensation under the Act, 2013.

6. In view of the above and for the reasons stated above and our specific finding that with respect to the lands acquired under the

provisions of the J & K Act, 1990 Section 24(1)(a) of the Act, 2013 shall not be applicable and even otherwise as observed hereinabove on merits also as the award could not be declared due to the pendency of the writ petitions before the High Court and the order of status quo, the High Court has committed a serious error in directing the appellants to pay the amount of compensation under the Act, 2013. To that extent the impugned common judgment and order passed by the High Court is unsustainable, both on facts as well as on law."

20) Similarly, the Hon'ble Division Bench of this Court in case titled **Khursheed Ahmad Nazki & anr. vs. UT of J&K and ors., LPA no. 85/2023** (decided on 01-09-2023) has held as under:

"30. Thus, we can say that even if the Jammu and Kashmir Land Acquisition Act, 1990, stood repealed by virtue of the Jammu and Kashmir Reorganisation Act, 2019, in view of Section 6 of the General Clauses Act, 1897, any investigation or legal proceeding may be continued and enforced as if the repealing Act had not been passed. Thus, even if the RFCTLARR Act came into operation repealing the Jammu & Kashmir Land Acquisition Act, by virtue of Section 6 of the General Clauses Act, 1897, the proceedings already initiated under the Jammu and Kashmir Land Acquisition Act, 1990 would continue.

31. Accordingly, in view of the above, we do not agree with the contention of the learned Senior Counsel for the appellants that after enforcement of the Jammu and Kashmir Reorganisation Act, 2019, with effect from 31.10.2019, the land acquisition proceedings have to be continued under the RFCTLARR Act."

CONCLUSION:

21) From a bare perusal of the judgments *supra*, it can be safely concluded that the petitioner by no stretch of imagination can claim or insist that he has right to be compensated under Act of 2013. The petitioner on his own showing, has not only admitted that the possession of the land in question has been taken over since long, but also has demonstrated that an amount of Rs. 3,00,000/- was deposited before the Collector, which was later on enhanced to Rs. 4,78,000/- by PNC, which he himself has chosen not to challenge through statutory remedies in time, if he was dissatisfied by it. The overall conduct of the petitioner and his pleadings, imply that the instant petition is not a bona fide pursuit of justice but a calculated

and clever, though hopelessly time barred, attempt to circumvent the statutory rigors of the Act of 1990 Svt. and on the other hand, to take benefit and gain unjust enrichment under the Act of 2013, which provides for significantly higher compensation. Such conduct cannot be countenanced as the same amounts to nothing short of a gross abuse of process of law.

22) The petition, accordingly, is found to be devoid of any merit and an attempt to reopen settled issues for financial gain and unjust enrichment. Accordingly, the writ petition is *dismissed* along with connected application(s).

(Wasim Sadiq Nargal)
Judge

SRINAGAR:
14.05.2026
"HAMID"

- ❖ Whether Judgment is Speaking? Yes
- ❖ Whether Judgment is Reportable? No/Yes.

