

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 1044/2024

1. **Ab. Karim Koli** (aged 65 years) ...Petitioner(s)/Appellant(s).
2. **Lal Din Koli** (aged 60 years)
Both sons of Salam Ud Din Koli
3. **Fayaz Ahmad Koli** (aged 27 years)
S/o Hakim Din Koli
Residents of Goose Zangli, Kashrai
Tehsil & District Kupwara.

Through: Mr. Shabir Ahmad, Advocate vice
Mr. Sheikh Manzoor, Advocate

Vs.

1. **UT of J&K through Commissioner** ...Respondent(s).
Secretary to Government Jal Shakti
Department, Civil Secretariat
Jammu/Srinagar.
2. **Chief Engineer** (PHE) Jal Shakti,
Kashmir Srinagar.
3. **District Collector** (Deputy
Commissioner) Kupwara.
4. **Collector Land Acquisition** (ACR)
Kupwara.
5. **Executive Engineer** Jal Shakti
Division Kupwara.
6. **Assistant Executive Engineer** Jal
Shakti (PHE) Sub Division Kupwara.
7. **Tehsildar Kupwara.**
Through: Mr. Jahangir Ahmad Dar, GA

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGEMENT

26.09.2026

ORAL

1. The petitioners, through the medium of the instant writ petition filed under
Article 226 of the Constitution of India, seek the following reliefs:

*a) A writ of Mandamus, commanding upon the respondents to
follow the mandate of the Right to Fair Compensation and
Transparency in Land Acquisition, Rehabilitation and*

Resettlement Act, 2013 and pay compensation to the petitioners for their land which has been forcibly acquired for construction of water tank and residential quarter situated at Goose Zangli Kashesi, Kupwara, falling under Khasra No. 787 by respondent Jal Shakti Department.

b) A writ of Prohibition, thereby prohibiting the respondents from forcibly dispossessing the petitioners from the subject land falling under Khasra No. 787 of Estate Goose Zangli Kashesi, Kupwara.

c) A writ of Mandamus, commanding upon the respondents to pay compensation to the tune of Rs. 5.00 lakhs for forcing the petitioners to file the present petition seeking compensation for their proprietary land, with a further direction that the same be recovered from the officers of the Jal Shakti Department.

2. The case set up by the petitioners is that they are owners in possession of proprietary land measuring approximately 04 Kanals, falling under Khasra No. 787, Khewat No. 106, situated at Goose Zangli, Tehsil Kupwara. It is stated that a portion of the said land has been donated by the petitioners for an Eid Gah, while the remaining portion continues to be in their peaceful possession and is being utilized for agricultural purposes.
3. It is further pleaded that in January, 2024, the petitioners noticed construction activity being undertaken by the PHE/Jal Shakti Department over the aforesaid land. According to the petitioners, the construction activity was being carried out without acquisition of the land in accordance with law and without payment of compensation. It is alleged that despite objections raised by the petitioners, the officials of the Jal Shakti Department dumped construction material over the land and continued with the construction activity.
4. The petitioners further contend that the respondents, without formally acquiring the proprietary land in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, continued with the construction work and threatened the petitioners with dire

consequences, compelling them to approach this Court by way of the instant writ petition.

5. The respondents, in their reply, have disputed the claim of the petitioners and have contended that no legal, constitutional or statutory right of the petitioners has been violated. A preliminary objection has also been raised that the petition involves disputed questions of fact which, according to the respondents, cannot appropriately be adjudicated upon in exercise of the extraordinary writ jurisdiction of this Court. The respondents have further alleged suppression of material facts by the petitioners and, on that basis, have sought dismissal of the writ petition.
6. On merits, the respondents have stated that a Dug Well and Pump House-cum-Operators' Quarter was proposed to be constructed for providing water supply to the areas of Goose and Zangli under the UT Capex Scheme, erstwhile KIDFC. According to the respondents, the site for construction of the departmental assets was initially identified by the local inhabitants, who were also the beneficiaries of the scheme.
7. It is the further case of the respondents that, after the site had been finalized, the petitioners raised an objection that the land identified for construction of the departmental assets was their proprietary land and did not permit the Department to undertake construction thereon.
8. The respondents state that, in view of the objection raised by the petitioners, the Department changed the site for construction of the proposed departmental assets, keeping in view the requirement of the locality for provision of drinking water facilities. It is accordingly contended that the works have since

been completed at a different location and that no departmental asset has been constructed over the proprietary land of the petitioners.

9. The respondents, accordingly, contend that the claim raised by the petitioners for payment of compensation is without any basis, as the Department has neither utilized the land of the petitioners nor constructed any departmental asset thereon. On this basis, dismissal of the writ petition has been sought.

10. Heard learned counsel for the parties and perused the record.

11. From a bare perusal of the instant writ petition, it is apparent that the petitioner claims to be the owner in possession of proprietary land measuring about 04 Kanals, falling under Khasra No. 787, Khewat No. 106, situated at Goose Zangli, Tehsil Kupwara. The grievance of the petitioner is that a portion of the said land was sought to be utilized by the respondents for construction of a water tank and residential quarter without acquisition of the land and without payment of compensation. The petitioner, accordingly, seeks a direction to the respondents to pay compensation in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

12. The factum of acquisition or utilization of the land of the petitioner for construction of the aforesaid water tank and residential quarter, however, has been specifically denied by the respondents in their reply affidavit. The respondents have stated that although the site was initially identified for construction of the departmental assets, the petitioner raised an objection claiming the land to be his proprietary land and, consequently, the site was shifted to another location. It has further been stated that the works have since

been completed by the Department at the alternative site and that no departmental asset has been constructed over the land of the petitioner.

13.Learned counsel for the petitioner has also not disputed the aforesaid specific stand of the respondents and has admitted that the proposed site for construction has already been shifted to some other place.

14.In view of the aforesaid admitted position, the very basis of the claim of the petitioner for payment of compensation, namely, acquisition or utilization of his land by the respondents for construction of the water tank and residential quarter, is not established. Once the land of the petitioner has neither been acquired nor utilized for construction of the departmental assets, there arises no occasion for directing payment of compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

15.The other relief sought by the petitioner, seeking a direction restraining the respondents from forcibly dispossessing him from the subject land, also does not survive for consideration, particularly when the respondents have categorically stated that the proposed site has been shifted and no departmental asset has been constructed over the land in question.

16.In the aforesaid circumstances, the reliefs claimed by the petitioner, being premised upon the alleged acquisition and utilization of his proprietary land for construction of the water tank and residential quarter, cannot be acceded to. The petitioner has also not disputed the factual position stated by the respondents in their reply affidavit.

17. In view of the foregoing discussion and the admitted position emerging from the record, the instant writ petition is rendered without any surviving cause of action and is, accordingly, dismissed.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR
26.09.2026
“Mubashir ”

Whether the judgment is speaking: Yes/No
Whether the judgment is reportable: Yes/No

