

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(Through Virtual Mode)**

LPA No. 157/2026 in
WP (C) No. 1926/2019

Date of pronouncement: 27.07.2026

Date of uploading:

1. Mohammad Sidiq Banday, Age: 72 years
S/o Abdul Khaliq Banday
R/o New Light Colony, Sopore
A/p Madina Bagh, Channapora, Srinagar
- Applicant(s)/Petitioner(s)

Through :- Mr. Nisar Ahmad Bhat, Advocate

v/s

1. Union of India through Secretary to
Ministry of Defense, New Delhi.
 2. Divisional Commissioner, Kashmir,
Srinagar.
 3. Commandant, 52 RR C/O 56 APO.
 4. HQ 10, Sector RR, Hyderbagh, Pattan,
Baramulla.
 5. Defense Estates Officer, Baramulla.
 6. Deputy Commissioner, Baramulla.
 7. Major 52 RR Amargarh, Sopore.
- Respondent(s)

Through :- Ms. Rehana Qayoom, Advocate vice
Mr. T.M. Shamsi, DSGI
Mr. Faizan Majeed Ganaie, CGSC for R-5

**CORAM: HON'BLE THE CHIEF JUSTICE (ACTING) (Through virtual mode)
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

ORDER (ORAL)

1. Impugned in this Letters Patent Appeal, filed by the appellant, is an order and judgment dated 22.05.2026 passed by the learned Single Judge of this Court [**“the Writ Court”**] in case titled *“Mohammad Sidiq Banday vs. UOI and Others”*, whereby the Writ Court has allowed the writ petition filed by the appellant and passed the following directions.

In view of the aforesaid facts and circumstances, the present petition is allowed with the following directions: -

- (i) The respondents shall examine the matter and take a decision within a period of six weeks from the date a copy of this judgment is made available to them, as to whether the petitioner's land in question, presently under the occupation of 52 Rashtriya Rifles Bn., is required for public purpose/security purpose.**
- (ii) In the event the respondents require the aforesaid land for continued use and occupation, they shall initiate and complete proceedings for requisition of the land under the relevant law, governing the subject and pay rental compensation to the petitioner, in accordance with law, within a period of six weeks from the date of this judgment/order.**
- (iii) In case the respondents do not require the land any further, they shall vacate the same and restore peaceful possession thereof to the petitioner, forthwith.**
- (iv) Till such decision is taken, the respondents shall also consider release/payment of entire rental compensation including its arrears for the entire period of holding petitioner's land by them, in period of holding petitioner's land by them, in accordance with rules and norms, applicable to such requisitioned property.**

2. The impugned order is challenged by the appellant, primarily, on the ground that the Writ Court has not appreciated that the reliefs granted are not the reliefs prayed for in the writ petition by the appellant. He would argue that since his landed property was found to be under the unauthorized occupation of the respondents and, therefore, the Writ Court ought to have either directed the vacation of the possession or in the alternative for initiating proceedings for acquisition under land acquisition law in force.

3. Having heard learned counsel for the appellant and perused the material on record, it is necessary to first set out the prayer clause of the writ petition hereinbelow: -

- a. **Mandamus directing the respondents to restore the possession of land measuring 1 Kanal and 4 ½ marlas land situated at New Light Colony Hemlina Amargad Sopore to the petitioner forthwith.**
- b. **Mandamus commanding the respondents to pay the damages/compensation of Rs. 50.00 Lacs to the petitioner on account of illegal possession. The respondents more particularly respondent no. 3 be further directed to pay the prevailing commercial market rent to the petitioner for illegal occupation, till its vacation by 52 RR.**
- c. **Any other writ, order or direction through not specifically prayed be issued in favour of the petitioner and against the respondents.**

4. From the pleadings of the appellant, it clearly transpires that the grievance as is projected by the appellant before the Writ Court was to the extent that his land measuring 1 kanal 4 ½ marlas situated in New Light Colony Hemlina Amargad Sopore [**“the subject land”**] is in illegal occupation of the respondents and, therefore, the respondents are under an obligation either to formally acquire it and pay compensation or vacate it.

5. The reply affidavit filed by the respondents discloses their stand, to the effect that the subject land was a part of an abandoned weaning factory which was spread over more than 10 kanals. Keeping in view the security scenario in and around Sopore, at the relevant point of time, the same was occupied to secure the population of the town and the neighboring areas by putting the aforesaid property to use and to

prevent the use of such abandoned dilapidated factory by the terrorists.

6. Be that as it may, the respondents have not denied having occupied the property. They, however, claim that they have got the approval of the acquisition from the Deputy Commissioner, Baramulla in terms of later's letter dated 30.11.2018. It is, thus, evident that in the aforesaid background, the Writ Court dealt with the controversy and issued the aforesaid directions.
7. While we do not find any fault in the manner in which the Writ Court has disposed of the writ petition, but we wish to introduce more clarity so that the dispute between the parties is settled once for all, leaving no scope for further litigation.
8. In that view of the matter, we propose to dispose of this appeal by providing as under: -
 - a) The respondents, as directed by the Writ Court, shall take a decision within a period of two months from today as to whether they still need to occupy the land for public purpose/security purpose.
 - b) If they take a decision with regard to continuation of the occupation of the subject property, they shall initiate and complete the requisition proceedings under the Requisition and Acquisition of Immovable Property Act, 1952 within the statutory period and disburse the entire arrears of rental, payable to the appellant, from the date of such requisition.

- c) If the decision of the respondents is that the subject land is required for public purpose and the requirement is perennial in nature, they shall initiate steps for formally acquiring the same under the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- d) Should they decide not to occupy the property any more, they shall immediately restore the possession of the appellant and also disburse him all the arrears of rental from the date it was taken possession of by the respondents.
- e) The above directions may not be complied with if the acquisition proceedings are already complete and the entire rental arrears of rental compensation have been disbursed to the appellant and that the land is not permanently required for public purpose.

9. Disposed of.

(Mohd. Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (A)

JAMMU
27.07.2026
Manik

Whether this order is speaking: Yes/No

Whether this order is reportable: Yes/No