

Serial No. 16.
Regular Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 1543/2014.

ABDUL AHAD MIR.

...Petitioner (s)

Through: Mr. Z.A. Qureshi, Sr. Advocate with
Mr Anurag Thakur, Advocate.

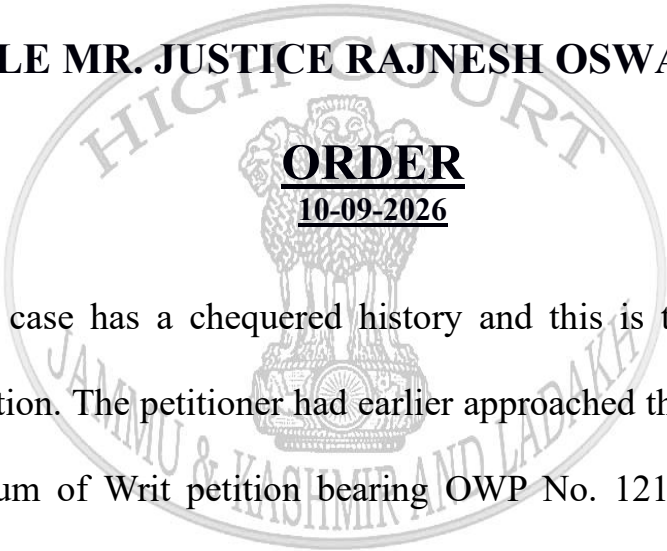
VERSUS

STATE OF JK AND OTHERS.

Through: Ms. Rahella Khan, Assisting Counsel.

...Respondent(s)

CORAM:
HON’BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.



ORDER
10-09-2026

01. This case has a chequered history and this is the second round of litigation. The petitioner had earlier approached this Court through the medium of Writ petition bearing OWP No. 1211 of 2011, with the grievance that though recommendations had been made by the Executive Engineer concerned to the High Level Committee for allotment of a residential plot to the petitioner in lieu of the property acquired for construction of the pedestrian mall. The Writ petition came to be disposed of in terms of order dated 15th of March, 2012, whereby the respondents therein were directed to accord consideration to the petitioner's case, having regard to the recommendations made in his

favour and, of course, in accordance with the rules and policy, within a period of four weeks from the receipt of a copy of the order.

02. As the order was not complied with, the petitioner preferred contempt petition bearing Contempt (OWP) No. 295 of 2012, and the respondents therein filed a Statement of Facts along with order dated 10th of July, 2014, whereby the claim of the petitioner came to be rejected.

03. The petitioner, through the medium of this petition, has assailed the Consideration Order dated 10th of July, 2014, passed by respondent No. 5 and, in the alternative, the petitioner has also sought permission to raise construction on the land belonging to his wife, situated at Abi Nowpora, Srinagar, comprising Survey No. 582, for which permission was accorded to him by the High Level Committee in its 219th meeting dated 25th of September, 1981.

04. It is stated by the petitioner that the property of the petitioner and his two brothers was acquired for widening of the Foreshore Road, Srinagar. The Government had constituted a High Level Committee and the said Committee, in its decision taken in its 219th meeting held on 25th of September, 1981, instead of allotting any plot of land to the petitioner, permitted him to raise construction of a house at Abi Nowpora, Srinagar on the land belonging to his wife, comprising Survey No. 582.

05. However, the petitioner was not allowed to raise any construction on the ground that permission from the Srinagar Municipal Corporation (SMC) was required. The petitioner applied to the Srinagar Municipal Corporation (SMC) for raising construction. However, the petitioner

was informed through Communication dated 20th of May, 1992, that the building permission case of the petitioner could not be allowed on the ground that the area on which the petitioner intended to raise construction fell within the prohibited limits of construction.

06. Thereafter, in terms of communication dated 24th of July, 2008, respondent No. 5 sought certain information from the Collector Land Acquisition, (LACMA) Srinagar so that the case of the petitioner could be placed before the High Level Committee. It is stated that after seeking the report from the Collector, respondent No. 5 was to place the matter before the High Level Committee to take a decision in the matter. The petitioner again submitted an application dated 22nd of June, 2009, with the Vice Chairman, (LACMA) and when nothing was done, the petitioner filed Writ petition bearing OWP No. 1211 of 2011, which was disposed of in the manner aforesaid.

07. Pursuant to the said order, the impugned order dated 10th of July, 2014, came to be passed by respondent No. 5. The petitioner has impugned the same on the ground that respondent No. 5 was under an obligation to refer the case of the petitioner to the High Level Committee, which alone had the authority to accept or reject the case of the petitioner, and no power was vested with respondent No. 5 to pass the impugned order.

08. The respondents have filed their response, stating therein that the Writ petition is not maintainable insofar as the impugned order dated 10th of July, 2014, is concerned, as the same was passed in compliance with the directions of this Court. It is further stated that the petitioner as well as

his brothers were found entitled to one plot of land besides an amount of Rs. 30,000. The decision was thus taken and has become final. Therefore, any further claim of the petitioner, either earlier or at this stage, cannot be accepted. Therefore, there is no need to place the case again before the High Level Committee.

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

10. A perusal of the decision taken in the 219th meeting of the High Level Committee on 25th of September, 1981, reveals that, in lieu of the property of the petitioner and his two brothers, the following settlement was arrived at:

- 1. Settled against consideration of Rs 30,000, (Rs Thirty thousand only) (including rent for three families and carriage for materials, but excluding cost of land, which shall be paid as per approved rates.*
- 2. Dismantled material to go to the party.*
- 3. One plot was promised to be allotted to two families at Habak against cash payment, as and when available, subject to the condition that none of the shareholders is left with proprietary land/house.*
- 4. One shareholder to be allowed to reconstruct one residential house in Khasra number 582 in Abi Nowpora on his wife's land.*
- 5. Sale deed to be executed on 27.8.1981 at 12:00 noon.*
- 6. Possession will be handed over within one month from execution of sale deed.*

11. As per the decision arrived at in the meeting of the High Level Committee, one plot was promised to be allotted to two families at Habak Srinagar against cash payment and as and when available, subject to the condition that none of the shareholders was left with the proprietary land/house whereas one shareholder i.e. petitioner was allowed to reconstruct one residential house in Survey No. 582 at Abi Nowpora, which belongs to the wife of the petitioner.
12. The contention of the respondents is that once an amount of Rs. 30,000/- has been received by the petitioner and his other brothers and, therefore, the petitioner is not entitled to any relief. The settlement further reveals that an amount of Rs. 30,000 was settled as compensation to three families, which included rent for three families and carriage charges, but excluded the cost of land.
13. It is evident that one plot was promised to two families, i.e. the two brothers of the petitioner, whereas the petitioner was permitted to raise construction of a house on the plot of land belonging to his wife, situated at Abi Nowpora, Srinagar, comprising Survey No. 582. However, it is quite clear from the record that the petitioner could not raise construction on the plot of his wife, as the same fell within the prohibited limits of construction.
14. Ms. Rahella Khan, learned counsel for the respondents has tried to persuade this Court that prohibition for raising construction was placed in the year 1986 only and that, for five long years after the decision was

taken in the year 1981, the petitioner did not raise construction and, as such, he is not entitled to any relief.

15. The submission of Ms. Rahella, has been taken note of only for the purpose of rejection, as the Communication dated 24th of July, 2008, itself demonstrates that requisite information was sought by respondent No. 5 from the Collector Land Acquisition, (LAKMA) so as to place the case of the petitioner before the High Level Committee.

16. The fact remains that the petitioner has not been compensated like his brothers. The petitioner may or may not be entitled to land, but respondent No. 5 had no jurisdiction/power to pass the impugned order, as the decision was required to be taken by the High Level Committee.

17. In view of the above, the present petition of the petitioner is allowed and the impugned order dated 10th of July, 2014, is quashed and the respondents are directed to place the case of the petitioner before Respondent No. 3. This Court is sanguine that Respondent No. 3 shall consider the case of the petitioner in accordance with law and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

18. It is, however, made clear that this Court has expressed any opinion on the merits of the claim of the petitioner and the respondent No.3 shall independently examine the matter.

19. *Disposed of.*

(Rajnish Oswal)
Judge

SRINAGAR
10-09-2026
Showkat Khan