

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

WP(C) 3055/2022 CM(679/2025)

MOHAMMAD AFZAL NAIK

...Appellant(s)/Petitioner(s)

Through: Mr. B.A Malla, Advocate

Vs.

**UNION TERRITORY OF J AND K AND
ORS. (JAL SHAKTI / IRRIGATION AND
FLOOD CONTROL)**

...Respondent(s)

Through: Mr. Jahangir Dar, GA

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

03.03.2026

CM 679/2025:

1. By this application, applicants herein are seeking permission of this Court for placing on record the supplementary affidavit.
2. For the reasons stated in the application, same is allowed and the supplementary affidavit is taken on record.
3. CM is disposed of.

WP(C) 3055/2022:

4. By this petition, petitioner herein is seeking direction upon respondents to follow the procedure as laid in the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, by passing appropriate award in his favour, with a further direction to pay penal rent and other benefits to him from the date of occupation of the land in dispute, measuring 4 Kanals and 5 Marlas falling under Survey No. 353, situated on the Bijbehara-Shopian road till the final award is passed.
5. It is stated that the father of the petitioner was owner and in possession of the same land measuring 4 Kanals and 5 Marlas falling under Survey No. 353, which was taken over by the respondent department without paying any compensation to the father of the petitioner under the Land Acquisition Act, 1990 and have constructed office quarter thereupon.

6. It is further stated that the respondent department has been shown as tenant in the mutation record and a notification in respect of the land in question under Section 4 of the Land Acquisition Act, 1990, has also been issued without any progress till date.
7. It is submitted by learned counsel for the petitioner that the petitioner has made several representations before the respondents, but no action has been taken by them.
8. Per contra, respondents have stated in their reply that no record vis-a-vis compensation, as claimed by the petitioner, with respect to the land measuring 4 Kanals 5 Marlas could be found in the department as the said land has been taken over by the department in 1950s.
9. It is further stated in the reply that, in terms of SRO 154 of 1986, there will not be any compensation for the land acquired before 1971, if pending.
10. Respondents have also filed a supplementary affidavit, thereby placing on record the "Report of the Committee", which clearly substantiates that the petitioner is not the sole owner of the land in dispute, but there are other stake holders also. The relevant portion of the Report is reproduced herein below:

"The petitioner, who is clamouring for compensation for 4 kanal 5 marla, is actually co-stakeholder with Abdullah (or his descendents), Nazir and Saja (or her descendents). Again, Mst. Khatooni is also a stake holder by virtue of mutation deed No. 714. It is surprising that only one person (the petitioner) among five stakeholders has approached the department for compensation while the others are silent making the whole case of plea as misleading and ambiguous. The revenue extracts also show Irrigation Department as tenants. As per records, the land is under possession of the department since 1958. Hassan has died in 1989 (reportedly as per local enquiries). The records do not reveal Hassan himself ever having approached the department for compensation from 1958 to 1989. It is also surprising as to how Hassan has allowed construction of irrigations infrastructure without his consent when the construction was in progress under his very sight. It is in 1995 when his son Afzal approaches the department for compensation. A conspicuous inference is that either the land has been compensated earlier in totality or the land has been donated by the elders of the petitioners as sadqa

jariya. Thus, under these revelations, the claim of the petitioner is not genuine and is only a way to fleece the state exchequer. These facts have remained hitherto unattended thereby perpetuating his claim for compensation for so long leading to initiation of land acquisition process for only one person i.e. the petitioner. There is no record of objections having been received against the notification issued in favour of the petitioner only. As such, the whole process of land acquisition initiated previously becomes infructuous and is ridden with errors. The complete record relevant to so-called claim of compensation is not forthcoming as the jurisdiction of the land was shifted to Irrigation Division Shopian from Irrigation Division Anantnag. Also, the period of the event of possession by Irrigation Department dates back to pre-1960 when separate Collectorate for PHE/I&FC Department was non-existent and land acquisition process was handled by concerned District Collectors (Deputy Commissioners). In this case, the record has changed hands over a period of time. Under these circumstances, the case needs to be examined thoroughly even by an independent third party.

In the backdrop of above and considering the entry of Irrigation Department as tenant since 1958 in revenue records and silence of other stakeholders, the committee is of the view that plea of the petitioner for compensation of land is not genuine.

The report is submitted for favour of kind perusal and initiation of further necessary action.”

11. Learned counsel for the petitioner states that the petitioner would feel satisfied if the instant petition is disposed of with a direction to the respondents to consider and decide the claim of the petitioner as pleaded in the writ petition as well as by taking into account the report of the committee (supra) submitted by the respondents, within a reasonable period of time.
12. Mr. Jahangir Dar, learned Government Advocate for the respondents states that he has no objection to the proposition made by the learned counsel for the petitioner.
13. Be that as it may, the present writ petition is disposed of with a direction to respondent No. 2 to 6 to consider and decide the claim of the petitioner, taking into account the pleadings made in the instant writ petition and the report of the committee as taken note of hereinabove, within a period of

three months, from the date of passing of this order, by passing a speaking order thereon.

14.Disposed of.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:

03.03.2026

“Adil Ismail”

