

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

Case:- APCIV No. 129/2015
c/w
CONC No. 203/2015

1. UNION OF INDIA THROUGH SECRETARY MINISTRY OF HOME AFFAIRS, NEW DELHI.
2. DIRECTOR GENERAL CRPF, CGO COMPLEX LODHI ROAD, NEW DELHI.
3. INSPECTOR GENERAL OF POLICE, CRPF, JAMMU SECTOR BANTALAB JAMMU.
4. DIGP, GROUP CENTRE, CRPF, BANTALAB JAMMU.
5. COMMANDANT-72 BN CRPF.

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

Through: Mr. Sandeep Gupta, CGSC

Vs

1. BODH RAJ S/O CHET RAM.
2. KRISHAN LAL S/O CHET RAM.
3. BADRI NATH S/O SANT RAM.
4. BALDEV RAJ S/O LACHI RAM
5. SUNDER DASS S/O LACHI RAM.
- 6 DEWAN CHAND S/O LACHI RAM.
- 7 OM PARKESH S/O ISHER DASS.
8. ANANT RAM S/O MATHRA DASS
- 9 MULKH RAJ S/O BISHAN DASS.
10. KASTURI LAL S/O BISHAN DASS.
11. LEKH RAJ S/O SHAM DASS.
12. SHEROO RAM S/O BINDRA BAN.
13. DURGA DASS S/O BINDRA BAN.
14. TILAK RAJ S/O AMIR CHAND.
- 15 ANIL KUMAR S/O MUHSI RAM.

All residents of village Bhajwal, Tehsil Sunderbani, District Rajouri.

..... Respondent(s)

Through: None

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
13.05.2024

01. The court of Additional District Judge, Rajouri came to dispose of two land acquisition references No. 04/L.A. Act & reference No. 05/L.A. Act instituted on 29.11.2000 & 15.05.2009 respectively by virtue of a common award dated 31.07.2014 thereby enhancing the compensation assessed by the Collector Land Acquisition and awarding compensation payable @ Rs. 45,000/- per kanal along with interest @ 6% per annum on the excess amount of compensation.

02. The Collector Land Acquisition, Rajouri had in his land acquisition award dated 17.03.1998 awarded an amount of compensation @ Rs. 25,000/- per kanal. The land acquired was 285.1 kanals.

03. In the reference proceedings before the court of Additional District Judge, Rajouri the Indenting Department was Group Centre SSB for whose benefit the land acquisition proceedings had taken place, which had appeared and contested the reference proceedings before the court of Additional District Judge, Rajouri.

04. The said reference court came up with the enhancement of compensation in terms of award dated 31.07.2014.

05. It is against this aforesaid award dated 31.07.2014 that the Union of India through Ministry of Home Affairs and the officials of Central Reserve Police Force (CRPF) felt aggrieved on account of the purported reason of enhancement and that the liability to pay the enhanced compensation amount for the land acquired had shifted and fallen unto the Union of India, Ministry of Home Affairs and the Director General (DG), CRPF, whereas the indenting department was Group Centre SSB, Rajouri.

06. The very fact that the Group Centre SSB, Rajouri is the predecessor-in-interest of the CRPF with respect to the land acquired would mean that the CRPF cannot distance itself from the fact that Group Centre SSB, Rajouri was well cognizant of the fact that the reference proceedings had taken place before the court of Additional District Judge, Rajouri which resulted in passing of the final award dated 31.07.2014.

07. In order to assail the final acquisition award dated 31.07.2014, by a statutory appeal, the prospective appellants, namely, Union of India through the Ministry of Home Affairs and the officials of CRPF which includes the Director General (DG)

CRPF, CGO Complex, Lodhi Road, New Delhi, the Inspector General of Police (IGP) CRPF, Jammu Sector Bantalab, Jammu, the Deputy Inspector General of Police (DIGP), Group Centre CRPF, Bantalab, Jammu and the Commandant – 72 Bn CRPF have come forward with an application for leave to appeal bearing APCIV No.129/2015 accompanied with an application for condonation of delay CONC No.203/2015 and CM No. 01/2015 seeking stay of the operation of final award dated 31.07.2014.

08. In all the three applications, the non-applicants are fifteen (15) in numbers, namely:-

1. BODH RAJ S/O CHET RAM.
2. KRISHAN LAL S/O CHET RAM.
3. BADRI NATH S/O SANT RAM.
4. BALDEV RAJ S/O LACHI RAM
5. SUNDER DASS S/O LACHI RAM.
6. DEWAN CHAND S/O LACHI RAM.
7. OM PARKESH S/O ISHER DASS.
8. ANANT RAM S/O MATHRA DASS
9. MULKH RAJ S/O BISHAN DASS.
10. KASTURI LAL S/O BISHAN DASS.
11. LEKH RAJ S/O SHAM DASS.
12. SHEROO RAM S/O BINDRA BAN.
13. DURGA DASS S/O BINDRA BAN.
14. TILAK RAJ S/O AMIR CHAND.
15. ANIL KUMAR S/O MUHSI RAM.

All the non-applicants are shown to be the residents of village Bhajwal, tehsil Sunderbani, district Rajouri.

09. The applicants, i.e., the Union of India and the officials of the CRPF came forward with an application CM No. 1327/2023 with the mention of fact that the non-applicant No. 2 – Krishan Lal S/o Chet Ram, non-applicant No. 4 – Baldev Raj S/o Lachi Ram, the non-applicant No. 6 – Dewan Chand S/o Lachi Ram and the non-applicant No. 13 – Durga Dass S/o Bindra Ban have expired.

10. The applicants came to derive the notice of the death of the said four non-applicants from the return of summons/notice made by the Munsiff Court, Sunderbani. The return report is dated 25.04.2022 in which it is mentioned that the non-applicant Nos. 1, 2, 4, 6, 12 & 13 have expired. The report from the Munsiff Court, Sunderbani is based upon the process server report dated 05.03.2022, wherein the process server has reported that the non-applicant Nos. 1, 2, 4, 6, 12 & 13 have expired.

11. The applicants came forward with an application CM No. 1327/2023 filed on 06.03.2022, therein seeking bringing on record the legal representatives of non-applicant Nos. 2, 4, 6, & 13 only in which the names of the legal representatives of the said

non-applicants have been disclosed meaning thereby that the applicants are supposed to have the knowledge of dates of death of the said non-applicants as well but which for the reasons best known to the applicants have not been disclosed.

12. In fact in the application, the applicants are making an averment that even the non-applicant Nos. 1 & 11 have also expired, regarding which the applicants are stated to be in the process of getting the confirmation.

13. Be that as it may, the question is whether the applicants are entitled to seek leave to maintain the proposed appeal against the land acquisition award and seek condonation of delay involving delay of 297 days. The reason for seeking condonation of delay is that while the Group Centre SSB had got the land acquired so as to be its indenting department in the reference proceedings before the Additional District Judge, Rajouri but at the time of transfer of the acquired land by the Group Centre SSB Authorities to the CRPF the fact was not disclosed that the acquisition was the subject matter of reference proceedings before the Additional District Judge, Rajouri and that it is only in the month of February, 2015 that the Group Centre SSB Authorities had intimated the DIG Central (Law), CRPF New Delhi with respect to the passing of the award.

14. The transfer of the acquisitioned land from Group Centre SSB to CRPF is said to be relatable to an order dated 05.03.2007 passed by the Ministry of Home Affairs, on which date the reference award dated 31.07.2014 had not come into existence and, therefore, the applicants are meaning to tell this Court that from 2007 onwards when the transfer of the acquired land had taken place from SSB to CRPF till the passing of the reference award dated 31.07.2014, the CRPF and its officials including the Ministry of Home Affairs under whom even the SSB falls under its administrative control and authority, were unaware of the proceedings so going on before the court of Additional District Judge, Rajouri.

15. Nothing can be more blatant a lie than the one which has been coined in the condonation of delay application that the Ministry of Home Affairs under whose umbrella both CRPF as well as Group Centre SSB operate was unaware of the pendency of reference proceedings before the court of Additional District Judge, Rajouri. Obviously, the application for condonation of delay was submitted with a thought process as if the courts of law are meant to be taken for a ride with any whims and fancy at the end of the applicants. This application and the attended applications are meaning to undermine the land acquisition

award which came into picture in 1998 after passing of which many of the land owners departed for heavenly abodes and now the legal representatives of the said land owners are expected to be bothered by the applicants through the indulgence of this Court in the matter of granting leave to appeal by condonation of delay. The application for condonation of delay along with the application for leave to appeal are frivolous and in fact their dismissal warrants heavy imposition of costs which this Court is, however, excusing and, therefore, restricting it only with an order of dismissal.

16. Accordingly the condonation application CONC No. 203/2015 and the application APCIV No. 129/2015 seeking leave to appeal are **dismissed**.

(RAHUL BHARTI)
JUDGE

JAMMU
13.05.2024
Muneesh

Whether the order is speaking : Yes / No

Whether the order is reportable : Yes / No