

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

WP (C) No. 2128/2024

Lal Din

....Appellant/Petitioner(s)

Through :- Mr. M. Nadeem Bhat, Advocate.

V/s

U.T of J&K and others

....Respondent(s)

Through :- Ms. Aparna Gupta, assisting counsel to
Mrs. Monika Kohli, Sr. AAG.

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

ORDER
02.09.2024

01. Learned counsel for the petitioner submits that the issue in question, which has been projected is covered by a judgment passed by the Division Bench of this Court in LPA No. 38/2019 decided on 07.06.2023 whereby, the appeal preferred by the appellant therein, was allowed and the judgment of the learned Single Judge was set aside by holding that the proceedings of land acquisition initiated by the respondents have lapsed in terms of Section 11-B, and therefore, Division Bench of this Court has held that acquisition proceedings cannot be permitted to proceed further qua the land of the appellant therein, which accordingly, were quashed. However, a direction has been issued to the respondents to initiate fresh land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, if the respondents require the land belonging to the petitioner therein for any public purpose and the respondents were directed to take a decision within four weeks from the date a copy of the said order was

served upon them. It was also made clear that, in case, the said land was not required by the indenting department, the same shall be returned to rightful owners within four weeks thereafter.

02. Petitioner through the medium of the instant petition, is also seeking quashment of the entire acquisition proceedings which has commenced by virtue of a notification issued under Section 4(1) of J&K Land Acquisition Act, 1990 dated 27.02.2018 followed by Notification issued under Section 6 & 7 of Land Acquisition Act, 1990 dated 25.04.2018 besides seeking quashment of notification issued under Section 9 and 9A of the Land Acquisition Act, 1990 dated 01.05.2018 and also the tentative award dated 12.02.2019.

03. The Division Bench of this Court, while allowing the appeal qua the petitioner therein, has observed that in case, if the Collector has made the tentative assessment of the compensation in terms of Section 11(1) (b) of the State Land Acquisition Act but has not proceeded further to make the award which was required of him under Sub-Section 4 of Section 11. Since the declaration under Section 6 was published on 25.04.2018 and therefore, the Collector was under an obligation in terms of Section 11 (b) to make his award by or before 24.04.2020 which has not happened in the case which was pending before the Division Bench, and in the aforesaid backdrop, the Division Bench of this Court has allowed the appeal preferred by the petitioner therein qua the petitioner only.

04. Learned counsel appearing for the petitioners, submits that the case of the petitioner is similar and is covered by the judgment passed by the Division Bench of this Court, and accordingly, he prays that the instant petition be disposed of by directing the respondents to accord due consideration in the light

of what has been held by Division Bench of this Court in LPA No. 38/2019 within some reasonable time.

05. Heard learned counsel for the petitioners at length and perused the record.

06. Issue notice to the respondents.

07. Ms. Aparna Gupta, assisting counsel to Mrs. Monika Kohli, learned Sr. AAG waives notice on behalf of the respondent Nos. 1 to 3. She is not averse to the disposal of the instant writ petition.

08. With the consent of the learned counsel for the parties without issuing formal notice, the instant petition is disposed of by directing the official respondent Nos. 1 to 3, to accord due consideration to the case of the petitioner in the light of the judgment passed by Division Bench of this Court in LPA No. 38/2019, decided on 07.06.2023, within a period of four weeks from the date a copy of this order and copy of the writ petition along with annexure(s) are made available to the respondents, strictly under rules and as per law, provided the case of the petitioner is similarly situated and is identical in nature. The order of consideration which is likely to be passed be forwarded to the petitioner by the respondents through registered post.

09. Thus, the instant writ petition, is accordingly, '*disposed of*' along with connected application(s).

(Wasim Sadiq Nargal)
Judge

Jammu:
02.09.2024
Renu