HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No. 518/2018 c/w
OWP No. 298/2018
OWP No. 516/2018
OWP No. 517/2018
CPOWP No. 54/2018

Reserved on: 18.12.2025
Pronounced on: 29.12.2025
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Lt. Col. Daljit Singh Dogra

...Petitioner(s)

Through:- Mr. Sunil Sethi, Sr. Advocate with
Mr Rahil Raja, Advocate
Mr Ankesh Chandel, Advocate

v.

State of J&K and others

...Respondent(s)

Through:- Ms. Chetna Manhas, Assisting Counsel to
Mrs. Monika Kiohli Sr. AAG
Mr. Suneel Sethi, GA
Mr. Atul Verma, Advocate

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सत्यमेव जयते

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

OWP No. 518/2018

1. By the present petition, the petitioner is challenging the Government Order No. 50-HUD of 2018 dated 16.02.2018, hereinafter for short to be referred as impugned order, issued by the respondent no. 1, Commissioner-cum-Secretary, Department of Housing and Urban Development, Civil Secretariat, Jammu, whereby, allotment of land made in favour of petitioner measuring 1 kanal under khasra No. 37 of Village Rakh Bhau, Tehsil Bahu (Jammu), has been cancelled *ab-initio*

and the Vice Chairman, Jammu Development Authority has been advised to assess and make just compensation to the allottee in lieu of the allotment of land measuring 1 kanal in compliance to the judgment dated 17.11.1999 passed in LPA No. 16/89, and to ensure that all the land in the said/ same khasra No., be identified, mapped and retrieved from the encroachers.

OWP No. 517/2018

2. In this petition also the same order of 'cancellation of allotment' that has been questioned in OWP no. 518/2018 is under challenge on the similar grounds, however, the petitioner in the instant petition claims to be a purchaser of 12 marlas of out of one kanal allotted land to Lt. Col. Daljit Singh Dogra.

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OWP No. 298/2018

3. In this petition the petitioner seeks removal of encroachment from one kanal of land in khasra No. 37 at Rakh Bhau which has been allotted to him vide Government Order No. 134-HUD of 2016 dated 06.04.2016 read with corrigendum under endorsement No. HUD/LIT/485/2015-JDA dated 17.10.2017 in implementation of Order dated 17.12.2015 passed in contempt petition No. 128/2000 and direct the respondents not to interfere with the possession of the petitioner over the said allotted piece of land.

OWP No. 516/2018

4. In this petition also the same order of 'cancellation of allotment' that has been questioned in OWP nos. 517/2018 & 518/2018 is under challenge on the similar grounds, however, the petitioner, Kuldeep Singh, in the instant petition, claims to be a purchaser of 8 marlas out of one kanal allotted land to Lt. Col. Daljit Singh Dogra.

CPOWP No. 54/2018 in OWP no. 298/2018

5. By this contempt petition, the petitioner is seeking action against the respondents for willful disobedience of order dated 16.02.2018 passed in OWP no. 298/2018, whereby, the parties have been restrained from raising any construction on the land-subject matter of the writ petition and status of the petitioner had been directed to be maintained. The Senior Superintendent of Police had been directed, by the said order, to ensure implementation of the instant order and the one passed in OWP No. 2022/2017.

6. Since the issue raised in all the petitions is same, therefore, these are taken up for final disposal together.

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BRIEF FACTS

7. The petitioner is stated to be the son of Major Anchal Singh who owned 6 kanals & 1 marla of land at Ahata Haweli Begum, which was taken over by the State Authorities on the orders of the then Monarch Sh. Maharaja Hari Singh for its inclusion in his Palace at Ram Nagar, Jammu, however, no compensation in lieu thereof has been paid to the

said landlord prompting him to address a representation before the concerned authorities pursuant to which the then Deputy Revenue Minister on 18.01.1954 decided to provide land in exchange of the acquired land and cash compensation for the structure.

8. The said directive of the Deputy Revenue Minister was not implemented, constraining the aggrieved to file a writ petition, bearing No. 200/1979 titled Smt. Sita Devi v. State of Jammu & Kashmir which was disposed of in terms of order dated 16.02.1989 with the direction to allot two kanals of land in Housing Colony, Jammu city and ascertain the compensation of the construction raised by Maj. Anchal Singh in terms of order dated 18.01.1954 *supra.*

9. The said judgment was challenged by the petitioner of Writ Petition 200/1979 Smt. Sita Devi and the State of J&K, by filing Letters Patent Appeals being LPA Nos. 16/1989 and 32/1989. The Division Bench of this Court in terms of a composite judgment dated 17.11.1999 disposed of both the LPAs in the following manner:

> *"The respondent would take steps with a view to allot six kanals and one marla of land in the vicinity where there was earlier proposal to allot two plots each measuring two kanals and which decision was taken on 18.01.1954.*
>
> *In case a piece of land is not available then the appellants be paid the just compensation. For this purpose, the notification under section 4 of the Land*

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Acquisition Act shall stand advanced. This course is being adopted in view of the decision given by the Supreme Court in case reported as Ujjain Vikas Pradhikaran v/s Raj Kumar Johri and others., AIR 1992 SC 1538. We accordingly fix this date as the date on which decision was given by the learned Single Judge of this Court. By taking that date as the date for the purpose of section 4 referred above, respondents would fix market value of six kanals and one marla of land and appellants be paid compensation along with interest and solution. The market value of course would be of the area where the land was originally located.

That steps be taken to comply with this judgment within a period of four months from the date copy of order passed by this Court is made available by the appellants to the respondents.

On account of the protracted litigation, the appellants are also entitled to costs. These costs are fixed at Rs. 5000/-.

Disposed of accordingly."

10. The State of J&K, respondents herein, preferred a Special Leave Petition before the Supreme Court bearing SLP No. 3046-3047/2001 and the Supreme Court passed the following order on 01.10.2002:-

> *"Four weeks time is granted to comply with the office report failing which the Special Leave Petitions shall dismissed without further reference to Court."*

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11. Subsequent thereto a contempt petition was filed by the petitioner bearing CP (OWP) No. 128/2000 titled *Lt. Col Daljit Singh Dogra v. Iqbal Khanday and others,* and this court in terms of order dated 03.08.2012 directed as follows:

> *"In the said background, Deputy Commissioner, Jammu shall also file Statement of Facts detailing particulars of the State Land within the limits of Jammu Municipal Corporation, transferred to Jammu Development Authority so as to enable the Court whether such land was transferred after Division Bench rendered its judgment, as the transfer, if any, made would be subject to the obligation under the judgment.*
>
> *Vice Chairman, Jammu Development Authority on his part shall extend all co-operations to Deputy Commissioner, Jammu to facilitate submission of the report."*

12. Thereafter, in terms of order dated 17.12.2015, the court again passed certain directions in the following manner:

> *"....The LPA Court judgment has to be implemented by enforcing the primary obligation on the part of State to allot 6 kanals and 1 marla of land in the vicinity of the two plots earlier proposed to be allotted and in the event of such land having been subsequently transferred to JDA, to reclaim the land and make it available to the petitioners. Offering of compensation in lieu of land not being the first option and transfer of land by State to JDA after the LPA Court Judgment, not being a limiting factor to implement the Judgment, by reclaiming the State land so transferred, it* ***would be appropriate to direct Chief Secretary of the State to take substantial and effective steps to implement the Judgment by making such land available to petitioners within the ambit of LPA Court Judgment. This be done within a period of six weeks from the date of service of this order****."(Emphasis supplied)*

13. The respondents, in compliance to the judgment and order dated 17.11.1999, passed in LPA No. 16/89, read with the order dated

17.12.2015 passed in the contempt petition no. 128/2000, issued a Government Order bearing No. 134-HUD of 2016 dated 06.04.2016, whereby sanction for allotment of 6 kanals and one marla of land falling under Khasra No. 211 at village Palloura was granted in favour of the petitioner. The said Government order was followed by a corrigendum dated 06.04.2016, bearing endorsement No. HUD/Lit/485/2015-JDA dated 05.07.2016, ordering as follows:

> *"Please read "piece of land measuring 05 kanals and 01 marla under Khasra No. 346 at Village, Paloura, Jammu and piece of land measuring 01 Kanal under Khasra No. 362 at village Toph Sherkhania, Jammu" instead of "piece of land measuring 6 kanal and 01 marla falling under Khasra No. 211 at village Paloura, Tehsil Jammu" appearing in Government Order No. 134-HUD of 2016 dated: 06.04.2016 issued under endorsement No. HUD/Lit/485/2015-JDA dated 06.04.2016."*

14. The said Government Order dated 06.04.2016, was again modified by a corrigendum under endorsement No. HUD/Lit/485/2015-JDA dated 07.10.2017, providing therein that land measuring 01 kanal falling under khasra No. 362 at Village Toph Sherkhania, Jammu, be read as 01 kanal under Khasra No. 37 at village Rakh Bahu, Tehsil (Bahu), Jammu. The said corrigendum is stated to have been issued pursuant to protest made by the locals about such allotment as the land falling under khasra No. 362 at Toph Sherkhania was a "*shishu samadian"*.

15. Subsequently, the respondent no. 2, vide his letter No. JDA/DLM/HQA/938-40 dated 30.01.2018, intimated the petitioner that

the proprietary rights in respect of the land measuring 1 kanal under Khasra No. 37 at Rakh Bahu, Tehsil Bahu, Jammu, on free hold basis, being a case of allotment of land in lieu of his proprietary land, has been granted in his favour upon the land having been handed over to him vide Executive Engineer JDA, Division No. I Jammu's No. JDA-I/3864-67 dated 09.11.2017.

16. The said land of 1 kanal under khasra No. 37 at Rakh Bahu, Tehsil Bahu, Jammu, is stated to have been sold by the petitioner by selling 12 marlas to Ishan Sharma S/o Late Sh. Ashok Kumar R/o Channi Rama, Near I.T.B.P Camp, Behind Wave Mall, Jammu (J&K) and 8 marlas to Kuldeep Singh S/o Sh. Lakhmi Ram R/o H. No. 3, Lane No. 3, Sector No. 3, Lakkar Mandi, Janipur, Jammu (J&K). The sale deeds in respect of the said land have been registered before the Sub Registrar, Jammu on 15.02.2018 and 16.02.2018 respectively.

17. The respondents, thereafter, in terms of the impugned order cancelled the allotment of land made in favour of the petitioner at Bahu under Khasra No. 37 comprising one kanal.

18. Since the cancellation has affected not only the allottee but those who have purchased it from the said allottee as well, therefore, the allottee as also the said purchasers have sought quashing of the impugned order by the medium of these writ petitions terming the impugned order as irrational.

19. Upon notice, the respondents appeared and filed their reply stating *inter alia* therein that there is no violation of any fundamental rights of the petitioners; the impugned order was necessitated as numerous complaints had been filed and during examination of the matter it transpired that the location offered to the petitioner as against the one occupied by the State was superior and carried more market value in comparison; the petitioner-allottee had been allotted the land in question for rehabilitation purpose, however, he violated the objective of allotment by raising a construction on the said piece of land for commercial purposes without seeking approval of the competent authority.

20. Heard learned counsel for the parties and considered the submissions made. I have also gone through the material placed on record.

21. The controversy raised in all the petitions, as taken note of in the preceding paragraphs, pertains to the cancellation of allotment of land made in favour of the petitioner in lieu of the land acquired on the orders of the then Monarch of the erstwhile State of Jammu & Kashmir. This court does not afresh require delving into how the land in question came to be allotted in favour of the petitioner, that, besides, being an admitted position, has already been taken note of in the preceding paragraphs,

22. The cancellation of allotment of 1 kanal of land in favour of the petitioner at Rakh Bahu falling under khasra No. 37, forming subject

matter of these petitions, is stated to have been necessitated on twofold grounds, first, that the said land has more valuation than that of the acquired piece of land and second, that complaints were received against the petitioner for having raised a construction that is commercial in nature violating, thereby, the objective of the allotment that aimed at rehabilitation and could, as such, cover the residential construction only.

23. This Court would only need to examine as to whether in the underlying circumstances the respondents were justified in issuing the impugned order that too on the grounds it has been based upon.

24. This court is of the opinion that the ground, taken in support of the impugned cancellation, that the land in dispute had more commercial value than that of the acquired piece of land is so frail to withstand, in that, the original allotment was issued in February, 2016, modified in October, 2017, and later on in February, 2018, the same is sought to be cancelled after allowing it to remain in operation for over a period of almost four months during which time the petitioner even sold the land in favour of certain other people, who also filed writ petitions before this court which too are under determination in this judgment.

25. At the very outset one of the documents forming part of the record in the shape of office noting dated 03.12.2018, under the signatures of learned Advocate General recording his opinion in respect of the matter deserves to be taken note of herein, thus:

> *"(i) The Government Order No. 50-HUD of 2018 dated 16.02.2018 cancelling allotment of piece of land measuring 1 Kanal under Khasra No. 37 at Village Rakh Bahu, Tehsil and District Jammu in favour of Lt. Col. Daljit Singh Dogra, S/o Late Major Anchal Singh, R/o 17-B Ext. Gandhi Nagar, Jammu vide Government Order No. 134-HUD of 2016 dated 06.04.2016 issued under endorsement dated 07.10.2017 is improper because the same has been issued after handing over the possession of the land to the concerned party with due deference to the compliance of the court directions and further without affording any opportunity of being heard. The order of cancellation therefore, would not stand in the test of scrutiny in the court of law moreso the reasons for cancellation are neither cogent nor sufficient.*
>
> *(ii) The record also bears testimony to the fact that the possession of land to the petitioner was handed over in accordance with law and same is being enjoyed upon by the concerned person.*
>
> ***In the given facts and circumstances, as emerged from the record, I am of the opinion that Government Order No. 50-HUD of 2018 dated 16.02.2018 needs to be withdrawn and the position as it stood before issuance of the same should be accepted. The checkered history of the case leaves hardly any option with the State other than to settle the age old issue once for all."***
>
> *(emphasis supplied)*

26. The authority, through bureaucratic alchemy, has attempted to justify an order unsupported by any statutory provision, logic, reasoning and rationality. The order impugned, on the face of it, appears to be a brazen endeavour of the official machinery to deprive a land owner of his legitimate right to have an alternative in lieu of his acquired land by the State. This brazen act is not only being given effect to in violation of the directions passed by this Court in the contempt petitions from time to time, the Division Bench of this Court but also by completely overlooking the legal advice tendered by the learned Advocate General.

27. The reasoning of the impugned order, as stated by the respondents and recorded in the preceding paragraphs, is only with respect to the allotted land carrying more monetary value than the acquired one and the allotted land having been misused by the petitioner raising commercial construction on spot without obtaining any permission in that behalf. The said reasoning also does not find support from the very records of the respondents itself as the documents placed on record, upon having been obtained in terms of the provisions of Right to Information Act; do disclose that the acquired land carries more fiscal value than the allotted one. Having said that, the ground of the allotted land being superior to the acquired land, as urged in support of the impugned order, loses significance is turned down accordingly.

28. The other and the only remaining ground taken in support of the impugned order that the object of the allotment, being rehabilitation, has been violated by the petitioner by raising construction, which is commercial in nature, at the allotted piece of land resulting in filing of complaints against such allotment from various quarters also is not sustainable inasmuch as the allotment of land cannot be expected to be cancelled merely because an unauthorized construction has been raised over it as that would not *ipso facto* render the allotment invalid, the factum of unauthorized construction could have very well been ascertained and taken care of by invoking the relevant provisions

of law, but cancellation of allotment of land by no stretch of imagination was ever available to the respondents.

29. The other factor being referred to is that the object of the allotment was rehabilitation of the petitioner, which too is imaginary as there is absolutely nothing on record that suggests that the allotment in question has been made for rehabilitation purposes, it could not have been and it is not made in such direction. It is in fact exclusively an alternative piece of land allotted to the petitioner in lieu of his land acquired by the State during the times the Monarchism was in place in the Jammu and Kashmir that too after a long drawn legal battle spreading over decades.

30. The impugned cancellation further loses significance for the reason that the land sought to be cancelled by the impugned order is no longer either in ownership or in possession of the allottee who is stated to have sold the same in terms of the registered sale deeds placed on record and those who have purchased such land, are now the recorded owners of the said piece of land as pleaded in the writ petitions, filed by them, being OWP no. 516/2018 and OWP no. 517/2018 that too before the issuance of impugned order dated 16.02.2018.

31. For all what has been said hereinbefore, the writ petitions succeed and are allowed as such. The impugned Government Order No. 50-HUD of 2018 dated 16.02.2018 issued by respondent No. 1 is accordingly quashed.

32. As a corollary to the above, the contempt petition, being CPOWP No. 54/2018, is also disposed of.

33. Registry shall place a copy of this judgment on each file.

(Moksha Khajuria Kazmi)
Judge

Jammu.
29.12.2025
Amjad lone, Joint Registrar/Secy.

Whether the judgment is reportable: No

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