HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

LPA No.125/2025

Pronounced on: 29.10.2026
Uploaded on: 30.10.2026
Whether the operative part or full judgment is pronounced: Full

Union Territory of Jammu & Kashmir and others ...Appellant(s)

Through:-
Mr. Ravinder Gupta, AAG

Versus

Abdul Gani and others ...Respondent(s)

Through:- Mr. R.K.S.Thakur, Advocate with
Ms. Anandita Thakur, Advocate

Coram: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

Sanjeev Kumar "J"

1. This *intra Court* appeal filed by the appellants arises from an order and judgment dated 26th February, 2024 passed by a learned Single Judge of this Court ["Writ Court"] in WP(C) No.168/2022 titled *Sh. Abdul Gani and others v. Union Territory of J&K and others*, whereby the Writ Court has allowed the writ petition filed by the respondents and quashed the acquisition proceedings initiated by appellant No.2 by issuing a notification dated 02.11.2017 under Section 4(1) of the J&K Land Acquisition Act, 1990 Svt. ["Act of 1990"] with a further direction to the appellants to initiate and conclude the acquisition

proceedings afresh in respect of land measuring 34 kanals 19 marlas comprised in different khasra numbers, situated at village Tetharka, Tehsil Gool, District Ramban ["subject land"]. The appellants have also been burdened with exemplary costs of Rs.6.00 lacs for utilization of acquired land for 22 years without payment of any compensation to the respondents.

2. Briefly stated, the facts leadings to the filing of this appeal are that the subject land owned by the respondents was allegedly taken over by the appellants for construction of a road in the year 2002 without acquiring the same in accordance with the land acquisition laws and payment of compensation assessed thereunder. It seems that the process for acquisition of the subject land was initiated by appellant No.2 (Collector, Land Acquisition, Ramban) by issuing an acquisition notification under Section 4(1) of the Act of 1990 on 09.01.2014. This was followed by notification dated 04.02.2014 issued under Section 6 of the Act of 1990. Thereafter notification under Section 9 and 9-A was issued on 03.03.2014. Tentative assessment of compensation was made in terms of tentative award passed by appellant No.2 on 27.08.2014 but no compensation was disbursed to the respondents. This constrained the respondents to file OWP No.1765/2016, which came to be disposed of by this Court in terms of order dated 14.08.2017, holding that the land acquisition proceedings initiated in terms of Section 4(1)

Notification dated 09.01.2014 had lapsed in view of the provisions of Section 11-B of the Act of 1990. The Single Bench of this Court, thus, quashed the acquisition proceedings and directed the appellants herein to commence fresh acquisition proceedings within four weeks and complete the entire exercise within six months.

3. The judgment was accepted by the appellants and as a result, a fresh notification under Section 4(1) of the Act of 1990 was issued on 02.11.2017. This was followed by Notification under Section 6 and 7 of the Act of 1990 issued on 22nd February, 2018. Notification under Section 9 and 9-A was issued on 02.03.2018, but the final award was passed by appellant No.2 only on 10.12.2021 i.e. much after the expiry of two years' time as envisaged under Section 11-B of the Act of 1990.

4. Feeling aggrieved, the respondents filed WP(C) No.168/2022 before the Writ Court seeking, *inter alia*, a writ of certiorari for quashing the draft award dated 19.07.2018 on the ground that the entire acquisition proceedings had lapsed in terms of Section 11-B of the Act of 1990 for failure of the Collector concerned to pass award within a period of two years from the date of publication of notification under Section 6 of the Act of 1990. The petition was contested by the appellants herein but the same came to be allowed by the Writ Court in terms of the order and judgment impugned in this appeal.

5. Learned Writ Court noted that in the instant case declaration under Section 6 and 7 of the Act of 1990 was issued on 22.02.2018, whereas the final award was passed by the Collector on 10.12.2021 i.e. well beyond the period of two years. Having taken note of the provisions of Section 11-B of the Act of 1990, the Writ Court concluded that the entire acquisition proceedings initiated in terms of notification dated 02.11.2017 stood lapsed. It is in these circumstances, the Writ Court while quashing the acquisition proceedings directed the appellants to initiate and conclude the acquisition proceedings afresh in accordance with the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013 [the Act of 2013"]. The Writ Court has also imposed exemplary costs of Rs.6 lacs on the appellants for depriving the respondents from utilization of their proprietary land without payment of any compensation.

6. The impugned judgment is assailed by the appellants primarily on the ground that the Writ Court has failed to apricate that in the instant case the appellants had invoked the special powers in case of urgency vested in the Government under Section 17 of the Act of 1990 and, therefore, provisions of Section 11-B of the Act of 1990 were not attracted. Reliance was placed by Mr. Ravinder Gupta, learned AAG, appearing for the appellants, on a judgment of this Court dated 16.11.2022 passed in *Gulzar*

Ahmad Akhoon and others v. UT of J&K and others WP(C) No.1274/2020 and judgment dated 08.04.2026 passed by the Division Bench of this Court in U*T of J&K and others v. Pyare Lal Tickoo, LPA No.311/2025.*

7. *Per contra*, Mr. R.K.S.Thakur, learned counsel appearing for the respondents, would argue that the judgment passed by the Writ Court is fully in consonance with the settled legal position and, therefore, does not call for interference by this Court in these proceedings. He would argue that once it is not in dispute that the final award was passed by the Collector concerned beyond the period of two years from the date of declaration issued under Section 6 of the Act of 1990, there was no escape from the provisions of Section 11-B of the Act of 1990. He would further argue that mere invoking of Section 17 of the Act of 1990 is not enough to save the acquisition proceedings from being declared having lapsed under Section 11-B of the Act of 1990, but the appellants are under an obligation to plead, demonstrate and prove that not only the possession of the land was taken over but that eighty (80) percent of the tentative assessed compensation was also tendered/disbursed to the interested persons. He would, therefore, submit that in the instant case there is no dispute that 80% of the assessed amount of compensation was never paid to the respondents, though, the possession of the subject land was already with the appellants. It is argued by Mr. Thakur that the

respondents are also required to be compensated for the unauthorized use and occupation of the land since the year 2003 without payment of any compensation.

8. Having heard learned counsel for the parties and perused the material available on record, we are of the considered opinion that the judgment passed by the Writ Court to the extent it holds that the acquisition proceedings initiated in terms of notification dated 02.11.2017 issued under Section 4 of the Act of 1990 had lapsed due to the failure of the Collector, Land Acquisition to pass final award within a period of two years from the date of declaration issued by the Government under Section 6 and 7 of the Act of 1990 is legally perfect. True it is that the declaration in terms of Section 6 was issued on 22.02.2018, whereas the final award was passed on 10.12.2021, which is well beyond the period of two years. It is also not in dispute that, though, the appellants invoked Section 17 of the Act of 1990 but 80% of the tentatively assessed compensation was not tendered to the respondents.

9 From a conjoint reading of Sections 17 and 17-A of the Act of 1990, it clearly transpires that in case of urgency, the Government may direct the Collector to take possession of any land needed for public purpose within fifteen days from the publication of notification under Section 9(1). Even though no final award in terms of Section 11 of the Act of 1990 is made,

such land of which possession is taken by the Collector under Section 17 would vest absolutely in the Government free from all encumbrances. However, Section 17-A of the Act of 1990 prescribes that the Collector shall tender and pay 80% of the compensation of such land as estimated by him to the persons interested and entitled thereto, before taking possession under Section 17 of the Act of 1990. It is, thus, well settled that the Collector, if directed by the Government under Section 17 of the Act of 1990, is empowered to take over possession of any land needed for public purpose without making final award, yet he shall not take possession of such land unless he tenders and makes payment of 80% of the compensation to the land losers.

10. Admittedly, in the instant case, Section 17-A was not followed and, therefore, the applicability of Section 11-B of the Act of 1990 to the acquisition proceedings in question was not excluded. The Writ Court has, therefore, correctly appreciated the controversy and passed the judgment impugned holding the entire acquisition proceedings having lapsed.

11. Mr. Ravinder Gupta, learned AAG, could not dispute the legal and factual position adumbrated by the Writ Court in the judgment impugned. He, however, submits that in the instant case where the subject land is already in possession of the appellants and has been put to public use, it would not be in the fitness of the things to direct the appellants, at this stage, to go

for third round of acquisition and, therefore, it would meet the ends of justice, if the relief claimed by the respondents in the writ petition is suitably modified so that interests of both sides are taken care of in the larger interest of public at large. He draws support from the judgment passed by the Division Bench of this Court in the case of Gulzar Ahmed Akhoon (supra), where the Division Bench in a similar set of circumstances disposed of the Writ Petition by issuing following directions:

> "a) The final award dated 11th August, 2020 insofar as it pertains to the petitioners is set aside.
>
> b) The Collector Land Acquisition, Budgam shall pass fresh award qua the petitioners only and for that purpose shall construe 11th August, 2020 (date of final award) as the relevant date for determination of market value but shall apply the yardsticks for assessment of compensation provided under the 1990 Act in respect of acquired land of the petitioners only. The Collector shall calculate other statutory benefits on such amounts including interest to be calculated and determined by taking into consideration the date of taking over possession i.e. 13th March, 2018.
>
> c) The date on which fresh award is passed in favour of the petitioners pursuant to this judgment and intimated to the petitioners shall be the date of cause of action for seeking enhancement of compensation under the 1990 Act, if the petitioners or any of them is dissatisfied with the quantum of compensation offered.
>
> d) While making payment of compensation assessed in terms of this judgment, the amount of compensation, if any, received by the petitioners shall be taken into account.
>
> e) That the compensation determined in favour of the petitioners pursuant to this judgment shall not give cause of action to any other land loser, whose land is acquired under the same notification to seek re-determination of the compensation."

12. The instant case is not different in any manner. There have been two rounds of acquisition proceedings, one initiated in the year 2014 and the second initiated in the year 2017. On both the occasions, Writ Court has declared the acquisition proceedings

lapsed by efflux of time, as prescribed under Section 11-B of the Act of 1990. We are in agreement with Mr. Gupta that it would not be in the public interest to call upon the appellants to go for third round of acquisition, for, doing so would not only harm the public interest but will also delay the disbursement of fair and just compensation to the respondents as well. The parties have litigated enough and now it is time to put a quietus to the controversy.

13. Insofar as contention of the respondents that the subject land was taken over by the appellants in the year 2002/2003 is concerned, the same is not substantiated by any documentary evidence. There is nothing placed on record by the respondents to demonstrate that they ever approached any authority in the year 2002 or thereafter with the grievance that their proprietary land has been forcefully taken possession of by the appellants and that they have not been paid any compensation for such deprivation.

14. In the absence of any cogent documentary evidence on record, we are left with no option but to assume that the subject land was taken over by the appellants only when notification under Section 4 of the Act of 1990 was issued i.e. 9th January, 2014. It is, thus, this date from which the respondents could be held entitled to payment of compensation.

15. In the given facts and circumstances of the case, we are persuaded to follow the view taken by the Supreme Court in the case of **M/s Delhi Airtech Services Pvt. Ltd. and another v. State of U.P. and another, 2022 INSC 1086** and followed by this Court in the cases of *Gulzar Ahmad Akhoon and Piaray Lal Tickoo* (supra).

16. For the foregoing reasons, we dispose of this appeal by directing as under:

i) The final award dated 10th December, 2021 passed by the appellants insofar as it pertains to the respondents herein is set aside.

ii) The Collector, Land Acquisition (S.D.M.), Gool shall pass fresh award qua the respondents only and for that purpose shall construe 10th December, 2021 (the date of final award) as the relevant date for determination of market value but shall apply the yardsticks for assessment of compensation provided under the Act of 1990 in respect of the acquired land of the respondents only.

iii) The collector shall calculate other statutory benefits of such land including interest to be calculated and determined by taking into consideration the date of taking over possession

i.e. 9th January, 2014 (the date on which notification under Section 4 of the Act 1990 was issued).

iv) The date on which fresh award is passed in favour of the respondents pursuant to this judgment and intimated to the respondents shall be the date of cause of action for seeking enhancement of compensation under the Act of 1990, if the respondents or any of them is dissatisfied with the quantum of compensation determined/assessed.

v) While making payment of compensation assessed in terms of this judgment, the amount of compensation, if any received by the respondents, shall be taken into account.

vi) That after determination of compensation in favour of the respondents pursuant to this judgment shall not give cause of action to any other land loser, whose land is acquired under the same notification to seek re-determination of the compensation.

vii) Since the respondents have been made to litigate in the Court for failure of the appellants to conclude the acquisition proceedings within time provided under the Act of 1990, as such, the respondents are entitled to be compensated accordingly. The Appellants are held liable and directed to

pay costs of Rs.3.00 lac to the respondents to be shared by them equally.

17. The judgment of the Writ Court is modified to the aforesaid extent and the Appeal shall stand disposed of accordingly.

(M A Chowdhary)
Judge

(Sanjeev Kumar)
Judge

JAMMU
29.10.2026
Vinod, Secy

Whether the order is speaking : Yes/No
Whether the order is reportable: Yes/No

Vinod Kumar
2026.10.29 21:49
I attest to the accuracy and
integrity of this document