Serial No.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP(C) No. 1949/2022

Reserved on: 05.10.2026
Pronounced on: **03.**11.2026
Uploaded on: **03.**11.2026
Operative part or full judgment : ***Full***

1. **Sukhdev Singh Pawar**
   S/O Late Sh. Budhi Singh
   R/O Ward No.11,
   Near PNB Akhnoor,
   District Jammu.

2. Ravinder Singh Jamwal, (65 years) …....Petitioners
   S/O Late Sh. Pritam Singh
   R/O Ward No.11,
   Near PNB Akhnoor,
   District Jammu.
   At present Talab Tillo Jammu

Through: Mr. P N Goja, Sr. Adv with
Mr. Abhinav Jamwal, Adv.

Vs.

1. **UT of J&K** through
   Commissioner/Secretary
   Housing and Urban Development Department,
   Civil Secretariat, Jammu

2. Commissioner/Secretary
   Local Bodies,
   Panama Chowk Near Divisional Commissioner
   Office, Jammu

3. Director Local Bodies
   Panama Chowk, Near Divisional Commissioner
   Office, Jammu.

4. Collector Land Acquisition
   (Sub Divisional Magistrate) ….. Respondents
   Akhnoor.

5. Executive Officer,
   Municipal Committee,
   Akhnoor.

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffar, AC

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. The petitioners, through the medium of the instant writ petition, filed under Article 226 of the Constitution of India, seek direction in the nature of writ of mandamus, commanding upon the respondents, to take recourse to the provisions of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" for acquisition of land measuring 17 marlas under Survey No. 358 situate at Village Manda at General Bus Stand Akhnoor, Tehsil Akhnoor, District Jammu owned by them; with further direction to respondents for paying compensation to the petitioners for use and occupation of land (supra) from the year 1991 till award under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, is made.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

2. The brief facts of the case, as projected in the writ petition, are:

(i) Petitioners are owners of land measuring 06 kanals 19 marlas under Survey No. 358 situate at Village Manda near General Bus Stand Akhnoor Tehsil Akhnoor, District Jammu; that a notification u/s 4 of the J&K Land Acquisition Act was issued for the acquisition of land under Survey No. 358 in the year 1968, which was later withdrawn and Govt. dropped the proceedings under Land Acquisition Act; that, after a considerable period of time, the petitioners approached the respondent No.5, for seeking sanction to raise construction over the above said land, which permission was denied to them on 28.12.1987,

on the ground, that said land has been acquired by the Govt, as such, no permission could be granted, for construction.

(ii) Aggrieved thereof, petitioners challenged the refusal order in an appeal/revision before J&K Special Tribunal, which was allowed by the learned Tribunal on 14.03.1989, observing therein that the suit land has neither been acquired by Govt. nor defendants have any right over the suit land and respondent no.4, therein, was directed to approve the site plan within one month; that the said order of learned Tribunal was upheld by different fora upto the Supreme Court.

(iii) The respondents, returned the possession of land except 17 marlas under Survey No.358 situated at Village Manda at General Bus Stand Akhnoor Tehsil Akhnoor District Jammu over which respondents had constructed a culvert, and a Pacca road forcibly, which constrained the petitioners to approach the civil court by way of filing civil suit vide File No.54/D titled 'Pritam Singh and Anr. V. State of J&K and Ors'; that the said suit was decreed in favour of the petitioners on 03.12.2009; that failure on the part of the respondents to deliver possession of 17 marlas of land (supra) compelled the petitioners to file execution petition before the trial court; that the respondents filed their objections before the executing court, stating therein that the said land has been decided to be acquired by the respondents and the matter has been taken up with the Tehsildar Akhnoor for identification of the land and preparation of requisite documents so that collector can accordingly proceed for passing of the award.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

(iv) The Collector Land Acquisition-respondent No.4, vide No.SDM/Akh/2017-18/809-815 dated 25.11.2017 issued Notification U/S 4(1) of the Land Acquisition Act, and invited objections from the interested persons; that the execution proceedings got stayed in view of issuance of notification u/s 4(1) of the J&K Land Acquisition Act Svt. 1990; that, in the meanwhile, State of J&K was reorganized under the provisions of The Jammu & Kashmir Reorganization Act 2019 and the provisions of said Act came to be made effective from 31.10.2019; that in view of applicability of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the civil court lost jurisdiction to adjudicate the issue, which constrained the petitioners to approach this court invoking writ jurisdiction of this court.

3. The petitioners seek indulgence of this court for a direction to the respondents to proceed afresh in the matter in accordance with the Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which came into force w.e.f 31.10.2019, in view of the J&K Reorganization Act, contending that after notification U/S 6 of the J&K Land Acquisition Act on 22.12.2023, the respondents had not been able to pass the final award within the required period of two years in terms of Section 11-B of the Act, as such, the proceedings initiated in terms of local Act lapsed with the expiry of two years.

4. Pursuant to notice, respondent 1, 2, 3 & 5 filed their objections, stating therein that the petition is liable to be dismissed *in limine*, as there is no infringement of any of the rights of the petitioners; that Collector Land Acquisition

Akhnoor has already initiated process of acquisition of land and respondent No. 5 as indenting agency has been pursuing the matter with the concerned Revenue Authorities for expediting the case and for passing of award at the earliest; that as and when the award is passed, the funds, as required, shall be placed at the disposal of the Collector Land Acquisition Akhnoor for payment of compensation. Lastly, it is stated that the writ petition, being misconceived be dismissed.

5. Mr. P N Goja, learned senior counsel appearing for the petitioners argued that Notification U/S 4 of the J&K Land Acquisition Act was issued on 26.11.2017, whereas notification U/S 6 was issued on 25.06.2023, but the fact of the matter is that new Act came into force on 31.10.2019, as such, the earlier proceedings were to be concluded within a period of two years, but in the present case, the same were not concluded within the stipulated period of time. He further submits that the aforesaid Act was abolished and the new Act has come into force; that the aforesaid land acquisition proceedings have lapsed by virtue of statutory provision of Section 11-B of the Act as no award within the period of two years was passed from the date of declaration under Section 6 was issued and published; that no final award has been passed in this case. Lastly, it is prayed that the writ petition be allowed and respondents be directed to proceed in the matter under the new Act, expeditiously.

6. Learned counsel appearing for the respondents submitted that acquisition proceedings in the instant case were initiated in the year 2017 when the Central Act was not applicable to the erstwhile State of J&K and therefore, State Land Acquisition Act is applicable to the facts and circumstances of the instant case; that as per Section 6 of the General Clauses Act, 1897, read with sub clauses (13) & (14) of Clause 2 of the Jammu & Kashmir Reorganization (Removal of

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

Difficulties) Order 2019 issued vide S.O. No. 3912 (E) of 2019 dated 30.10.2019 by the Ministry of Home Affairs, the previous operation of any law shall not be affected by repeal of that law and anything done or any action taken shall be deemed to have been done or taken under the corresponding provisions of the Central Laws; that since the acquisition proceedings have been initiated under the State Act of 1990, Section 24(10) of the Act, 2013 is not applicable to the facts and circumstances of the instant case; that the Draft award has been passed. Lastly, it is prayed that the writ petition be dismissed.

7. Heard learned counsel for the parties, perused the file and considered the matter.

8. Section 11-B of the Act provides for making an award within a period of two years from the date of publication of the declaration and if no award is made within that period the entire proceedings for acquisition of land shall lapse. For the sake of convenience, Section 11-B of the Act is reproduced herein below.

> *11-B.* ***Period within which an award shall be made****.--- The Collector shall make an award under Section 1 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse:*
>
> *Provided that in case where the said declaration has been published before the commencement of the State Land Acquisition (Amendment) Act, 1997, the award shall be made within a period of two years from such commencement."*

9. A bare reading of the aforesaid provision indicates that the award has to be made within a period of two years from the date of publication of declaration under Section 6 and if the award is not so made, the land acquisition proceedings would

HIGH COURT OF JAMMU & KASHMIR AND LADAKH सत्यमेव जयते

lapse. It is not the case of the respondents that the acquisition proceedings had remained stayed on account of some order of the court. The Division Bench of this court in **WP(C) No. 1861/2021** titled *'Aijaz Ahmad Wawa v. Union Territory of J&K & Ors'* decided on 30.08.2022, held that land acquisition proceedings have lapsed by virtue of Section 11-B of the Act, as no award was made within a period of two years and that the vesting of the land had not been completed within the same period.

10. Given the factual background of the case, as set up by the petitioners and also borne out of the record, available on file, respondent-Collector issued notification U/S 4 of the J&K Land Acquisition Act with regard to the subject land on 25.11.2017 and the Govt. of J&K vide Govt. Notification No.19-Rev (LAJ) of 2023 dated 22.12.2023 issued notice U/S 6 with regard to the subject land, therefore, the crucial date to reckon the period of two years for completion of the acquisition proceedings in terms of Section 11-B of the Act starts from the date, when declaration U/S 6 of the Act was made on 22.12.2023. The Collector has passed the draft Award on 25.07.2024 deciding compensation for the acquired land @ Rs.19.32 lacs per kanal along with statutory compulsive solatium @ 15%. The Collector submitted the draft Award to the District Collector for soliciting approval to the proposed rates of land compensation, for the land in question. After approval, as per record, Final Award was passed on 17.12.2025.

11. The petitioner has filed this petition on 18.09.2022. The contention of the learned counsel for the petitioner is that as per Section 6 of the General Clauses Act, the liabilities and rights are to be governed from the issuance of notification U/S 6 of the Land Acquisition Act and that the Final Award has not been passed, as yet, by the Collectorate and even after passing of two years which is the requisite

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

period for passing of the Award in terms of Section 11-B of the Act, as such, the acquisition proceedings got lapsed and that the respondents be directed to proceed in the matter for grant of compensation in favour of the petitioners/ land owners in accordance with the Act of 2013, which has been enforced in the UT of J&K since the year 2019.

12. A Division Bench of this Court in a case titled *'Gulzar Ahmad Akhoon & Ors. V. UT of J&K & Ors'* passed in WP(C) No. 1274/2020, vide judgment dated 16.11.2022, held in similar and identical background that an award passed after statutory period of two years, as contemplated under Section 11-B of the J&K Land Acquisition Act, the proceedings having been lapsed, is nullity and is liable to be quashed. The Division Bench, however, while drawing guidance from the judgments of the Apex Court in 'Delhi Airtech Services Pvt. Ltd. & Anr. V. State of U.P. & Anr', reported as **2022 INSC 1086** moulded the relief and instead of holding acquisition proceedings having been lapsed, directed the Collector to pass the fresh award qua petitioners only and for that purpose, shall construe the date of passing of the award as the relevant date for determination of compensation provided under the State Land Acquisition Act, in respect of the acquired land of the petitioners only, besides calculating other statutory benefits of such amounts, including interest to be calculated and determined by taking into consideration the date of taking over the possession. A similar view has been taken by a Coordinate Bench in WP(C) No. 2236/2024 titled **"Hamid Ullah Wani & Ors. V. UT of J&K & Ors"** in judgment dated 10.09.2025, while setting aside the impugned award therein to the extent of petitioners having been passed after more than two years with the direction to pass fresh award, qua the property of the petitioners.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

13. The Apex Court in the year 2022 was seized of the matter regarding land acquisition in Jammu & Kashmir, in a case titled 'Bharat Petroleum Corporation Ltd. (BPCL) & Ors. V. Nissar Ahmad Ganai' reported as **2022 INSC 1072**, wherein the land acquisition proceedings had been initiated under the J&K State Land Acquisition Act, 1990 in the year 2016, regarding which, a declaration under Section 6 was issued in the year 2018. The Apex Court examined the matter as to whether with the repealing of the J&K State Acquisition Act 1990 in the year 2019 after the Re-organization of the State of Jammu & Kashmir, the Union Act of 2013 could be invoked to assess the compensation. Having discussed the relevant provisions contained under Section 24(1)(a) of Act of 2013, saving clause in Section 6 of the General Clauses Act 1897 read with Clause 2(13) of the Jammu & Kashmir (Removal of Difficulties) Order 2019, held that Act of 2013, being clear and unambiguous does not include State Act of 1990, as such, the continuation of the acquisition under the State Act of 1990 being imperative and directed that the compensation for the subject land will not be determined under the Act of 2013 as its Section 24 is inapplicable to acquisitions under the J&K State Land Acquisition Act, 1990.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

14. The Apex Court in the aforestated judgments, further, held that *"even otherwise considering Clause 2(13) of the Order, 2019 read with Section 6 of the General Clauses Act under which the rights, liabilities, privileges, obligations acquired, accrued, or incurred under the repealed laws stands saved and would be continued under those Acts (in the present case, the Act 1990), therefore, it is presumed that while enacting the Order 2019 and providing Clause 2(13) of the Order, 2019, the legislature was conscious of the provisions of the earlier Act (Act,*

2013). Under the circumstances also, with respect to the lands acquired under the State Act of 1990, Section 24(1)(a) of the Act 2013 shall not be applicable, at all."

15. It is an admitted fact that the petitioners land measuring 17 marlas has already been taken over by the respondents for construction of General Bus Stand at Akhnoor and compensation has also been determined vide Final Award, within a period of two years from the date of issuance of declaration under section 6 of the Act.

16. A Constitution Bench of the Apex Court in ***Indore Development Authority v. Manohar Lal*** **(2020) 8 SCC 129** clarified the rules for when old land acquisitions lapse under Section 24(2) of the 2013 Land Acquisition Act. Overruling its past decisions, the court ruled that an acquisition lapses only if the government fails in **both** duties: taking physical possession of the land **and** paying compensation. If the government has done either one, the acquisition stands. The court decided that compensation counts as "paid" once the government **offers it to the landowners**, and if they refuse, saving it in the government treasury is legally sufficient. Furthermore, the state takes valid physical possession simply by **recording an official memo (Panchanama)**. Finally, if a court order or stay blocked the government from taking possession or paying, that delayed time **does not count** toward the five-year deadline for the acquisition to lapse.

17. The record received from the Collectorate, does indicate that the final award came to be passed by the Collector Land Acquisition (SDM) Akhnoor vide No. SDM/AKH/LAC/2025-26/238-44 dated 17.12.2025, determining the compensation of the land in question to a total compensation amount of

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

Rs.18,88,530/- payable to the persons interested @ Rs.19,32,000/- per kanal. The compensation has also been ordered to be apportioned, as per Annexure A, to the final award, indicating that the land in question was 'Shamilat Deh' and was under the tenancy of Sukhdev Singh, Vaishno Devi, son and daughter of Budhi Singh; Surinder Singh, Devinder Singh and Rajinder Singh, sons and Shashi Prabha, daughter of Pritam Singh.

18. The petitioners' case was essentially to seek payment of compensation for their land acquired for the construction of Bus Stand at Akhnoor notified under J&K Land Acquisition Act in terms of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" after its application to the UT of J&K after re-organization of the State of J&K in the year 2019.

19. In view of the authoritative and binding judgment of the Apex Court delivered in **'Bharat Petroleum Corporation Ltd. (BPCL) & Ors. V. Nissar Ahmad Ganai' (supra)**, that too in the context of the land having been notified under the J&K Land Acquisition Act Svt. 1990 and sought to be compensated in terms of the Union Act of 2013 made applicable to the State of J&K, which is directly applicable to the facts of the present case, the proceedings initiated under the local Act cannot be truncated mid way so as to direct the respondent authorities to proceed in terms of the new Act for acquisition of the land. Also that the land has already been acquired and compensation has also been awarded by way of a final award having been passed within the stipulated period of two years, the contention of the learned counsel for the petitioners that the award not having been passed within a period of two years lapses in terms of Section 11(B) of the Land

HIGH COURT OF JAMMU & KASHMIR AND LADAKH सत्यमेव जयते

Acquisition Act does not hold any water. On both these counts, the petition is found to be bereft of any merit and substance and is liable to be rejected.

20. Viewed thus, the petition on hand bereft of any merit and substance is **dismissed.** The petitioners, however, shall have a right of seeking other statutory remedies available to them with regard to the quantum of compensation and the limitation, if any, shall be eschewed for the period of the petition.

21. Record shall be returned to the respondents through their counsel.

(M.A Chowdhary)
Judge

Jammu:
03.11.2026
Raj kumar

Whether the order is speaking? Yes
Whether the order is reportable? Yes

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

Naresh Kumar
2026.11.03 16:36
I attest to the accuracy and
integrity of this document