HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP(C) No. 3438/2019

Reserved on: 03.11.2026
Pronounced on: **06.**11.2026
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Operative part or full judgment : ***Full***

1. **Mohd. Bashir**
   S/O Late Sh. Raj Mohd.

2. **Mohd. Rashid**
   S/O late Sh. Raj Mohd.

3. **Wazir Hussain**
   S/O Alam Din

4. **Jameel Hussain**
   S/O Abrahim

5. **Mohd. Din**
   S/O Shama Gujjar.

All residents of Thandi Kassi,
Tehsil and District Rajouri.

Through: Mr. Sanjay Sharma, Advocate.

Vs.

1. **State of J&K** through
   Commissioner/Secretary
   Revenue Department, J&K Govt.,
   Civil Secretariat, Srinagar/Jammu

2. Financial Commissioner,
   Govt., of J&K,
   Civil Secretariat,
   Srinagar/Jammu.

3. Custodian General,
   J&K Govt., Jammu.

4. Deputy Commissioner, Rajouri
   (Acting as Addl. Custodian).

….. Respondents

Through: Mrs. Monika Kohli, Sr. AAG for R-1 & 2.
Mr. Vishal Bharti, Dy. AG for R-3 & 4.

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

JUDGMENT

1. The petitioners, through the medium of this writ petition, seek direction to the respondents to restore the land measuring 24 kanals and 1 marla in lieu of their land falling under khasra No. 51 situated at village Thandi Kassi, Tehsil and District Rajouri, which after being declared as **'Evacuee Land'** without adopting the due procedure of law, was subsequently allotted to a displaced person and further directing the respondents to grant and release the compensation as per present market rate in favour of the petitioners for the land in question, which has been wrongly declared as **'Evacuee Land'** under Section 6 of J&K Administration of Evacuees' (Administration of Property) Act.

2. The petitioners have asserted in this petition that they are owners of the land measuring 24 kanals and 1 marla falling under khasra No. 51 situated at village Thandi Kassi, Tehsil and District Rajouri; that the aforesaid land was declared as **'Evacuee Land'** under Section 6 of J&K Evacuees' (Administration of Property) Act, without issuing any notice to the owners of the property and feeling aggrieved thereof, the owners of the land, who were the predecessors of the petitioners herein, challenged the same before the respondent No. 4-Additional Custodian, Rajouri, by filing a petition under Section 8 of the J&K Evacuees' (Administration of Property) Act, which was allowed vide order dated 02.04.1981, holding that the

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

predecessors of the petitioners had not migrated to Pakistan and their property mentioned above had wrongly been declared as **'Evacuee Property'**, before it was allotted to one Amar Chand S/O Thakar Dass, a displaced person.

3. It was next contented that the case of the petitioners was referred to the respondent No. 2 under Section 14-A of the J&K Evacuees' (Administration of Property) Act, for either allotting the land to the petitioners in that very village having similar nature or paying the compensation of the land along with interest; that the respondent No. 4 informed the respondents No. 2 and 3 that no alternate land for the allotment to the predecessors of the petitioners was available in that village, which could be given in exchange of the restored land to the restorees i.e., the predecessors of the petitioners, as such, respondent No. 4 recommended that compensation be paid to the restorees in lieu of the restored land in terms of Section 14-A of the J&K Evacuees' (Administration of Property) Act.

4. The petitioners have further pleaded that the respondent No. 3-Custodian General, vide Letter No. CG (EP) 495/85 dated 08.05.1985, had taken up the matter with the Revenue Department of the Govt. of J&K and the Revenue Secretary, vide his communication dated 28.08.2006, asked Deputy Commissioner, Rajouri, to furnish the record and restoration order. It was alleged that since then the respondents have been sitting over the matter

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

and have neither allotted any land to the petitioners nor paid any compensation, hence this petition.

5. Pursuant to notice, the respondent-Evacuee Property Department asserted that as per rules and regulations governing the subject, it is not for the answering respondent-Evacuee Property Department to allow compensation, in lieu of restored land as the same is to be done by other respondents subject to satisfaction by such authority, regarding the process of restoration.

6. The Respondent-Revenue Department, in their reply filed through Deputy Commissioner, Rajouri, have asserted that as per the Record of Rights for the year 1961-62, the land comprising of khasra No. 51 measuring 24 kanal 1 marla was recorded in the ownership of Fateh Mohd. Raj Mohd., Alam Din sons of Sabh Din in equal ¼ share, Ibrahim S/O Abdullah ¼ share, Shama and Amam Din sons of Khera equal in half share and that the entry of Fateh Mohd., and Amam Din was as evacuee through Custodian Evacuee Property, Jammu and Amir Chand S/O Thakur Dass as allottee.

7. What has been asserted by the Respondent No. 4-Deputy Commissioner, Rajouri in para-2 is reproduced as under:

> **"That in reply to the contents of para No. 02 of the petition, it is respectfully submitted that as Record of Rights 1961-62, the land comprising Khasra No. 51 measuring 24 kanal 01 marlas is recorded in the ownership of Fateh Mohd., Raj Mohd., Alam Din sons of Sabh Din in equal ¼ share, Ibraham S/o Abdullah ¼ share, Sham and Amam Din sons of Khera equal in half share. Fateh Mohd, Amam Din, Evacuee through Custodian Evacuee Property, Jammu and Amir Chand son of**

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

Thakur Dass resident of Tehsil Kotli, Allottee. it is pertinent to submit herein the aforesaid land was declared as Evacuee Property and the same was allotted to a PoJK Refugee and subsequently ownership rights were conferred upon them under section 3(A) of Agrarian Reforms Act, 1976."

8. It is an admitted case from the record made available on file that the land measuring 24 kanals and 1 marla falling under khasra No. 51 situated at village Thandi Kassi, Tehsil and District Rajouri was declared as **'Evacuee Property'** in terms of Section 6 of the J&K Evacuees' (Administration of Property) Act and the owners moved a petition under Section 8 of the aforesaid Act to restore the land in their favour. However, the Deputy Commissioner, Rajouri, exercising the power of the Additional Custodian under the J&K Evacuees' (Administration of Property) Act, vide order dated 02.04.1981, declared that the petitioners were entitled to the restoration, however, as there being no land available in lieu of their land in favour of the restorees, the original file was submitted to the respondent No. 3-Custodian General, J&K at Jammu with a request that an appropriate order may kindly be passed for sanctioning the compensation in respect of the land measuring 24 kanals and 1 marla falling under khasra No. 51 situated at village Thandi Kassi, Tehsil and District Rajouri in terms of Section 14-A of the J&K Administration of Evacuees' (Administration of Property) Act.

9. The Custodian General, as per record, appears to have taken up the matter with the Revenue Department vide his communication dated 08.05.1985. However, the petitioners have

HIGH COURT OF JAMMU & KASHMIR AND LADAKH

neither been paid compensation nor have they been informed about the decision taken.

10. Section 14-A of the J&K Evacuees' (Administration of Property) Act provides that the Government has to restore whole or any part of such property to the applicant in lieu of the property belonging to Government which is, as nearly as may be, of the same value or as the case may be. It is profitable to extract the relevant provisions of Section 14-A of the J&K Administration of Evacuees' (Administration of Property) Act:

> **14-A. [Transfer of property in lieu of evacuee property. –**
>
> **(1) Where any evacuee or his heir is entitled to the restoration of any evacuee property on an application made by him in this behalf [under section 14 or where the claim of any person is established under section 8] and the Government or any Officer not below the rank of the Financial Commissioner authorised by the Government in this behalf, is of the opinion that it is not expedient or practicable to restore the whole or any part of such property to the applicant by reason of such property or a part thereof being in the possession of a displaced person or otherwise, then, notwithstanding anything contained in this Act, it shall be lawful for the Government-**
>
> (a) to transfer to the applicant in lieu of the evacuee property or any part thereof, any immovable property belonging to the Government which, as nearly as may be, if the same value as the evacuee property, or any part thereof, as the case may be; or
>
> (b) to acquire any land allotted to such displaced person in respect of which claim has been established under section 8 or 14 of this Act, by publishing a notification in the Government Gazette to the effect that the Government has decided to acquire such land in pursuance of this section;
>
> (c) subject to the provisions of section 14-B, on and from the date of publication of the notification under clause (b), the right, title and interest of any person in the land shall be extinguished and the land shall vest absolutely in the Government free from all encumbrances :
>
> Provided that the displaced person shall continue to be in possession thereof on the same conditions on which he held it immediately before the date of the said notification;

Provided further that notwithstanding anything contained in the State Land Acquisition Act, Samvat 1990, when a notification under this section is made, it shall be deemed as if notification under sections 4, 6 and 7 of the said Act have been made.]

(2)Where in pursuance of sub-section (1) any evacuee or his heir has been granted any immovable property belonging to the Government or the property of any evacuee has been acquired, his right, title and interest in such evacuee property shall be deemed to have been extinguished and vested absolutely in the Government free from all encumbrances and the displaced person to whom such property stands allotted under valid order, shall continue to be in possession of such property on the same conditions on which he hold the property immediately before it was vested in the Government.

(3)Where in pursuance of sub-section (1) an evacuee or his heir has been granted immovable property in lieu of evacuee property and the evacuee or his heir has any objection to the evaluation of the property granted to him in lieu of the evacuee property, he may, within 90 days from the date of such grant, apply to the Government stating the grounds of his objection and on receipt of such application the Government shall refer the matter to the District Judge within whose jurisdiction the property is situated, for determining the question of evaluation of the property granted to the applicant."

11. From the pleadings and the record made available, it is abundantly clear that the land of the petitioners was declared as **'Evacuee Property'** under J&K Evacuees' (Administration of Property) Act and was allotted to a displaced person, namely, Amar Chand; that on an application moved under Section 8 J&K Evacuees' (Administration of Property) Act by the owners of the land in question, they were held entitled to the restoration of the land in question, however, in view of the land having been allotted to a displaced person, the possession of the land could not be restored to the petitioners and instead the Evacuee Property Department through Custodian General had taken up the matter with regard to payment of compensation to the petitioners, in terms of Section 14-A of the J&K Evacuees' (Administration of Property) Act. The matter

HIGH COURT OF JAMMU KASHMIR AND LADAKH
सत्यमेव जयते

has been pending with the respondents since 1981 when they were held entitled to the restoration of the land. Even after more than four and a half decade, the petitioners have still been waiting for the compensation to be paid or in the alternative to be allotted some State land, in lieu of their land having been used for the settlement of a displaced person.

12. Having regard to the pleadings, submissions made at the Bar and consideration of the matter, this Court is of the considered opinion that the petitioners are entitled to the restoration of their land having been wrongly declared as **'Evacuee Property',** as held by the Additional Custodian, Rajouri, which order has attained finality, holding that the land could not be restored to the petitioners for the reason that the same had been allotted to a displaced person and that no land was available in the village for being allotted to the petitioners, as such, petitioners' case was submitted to the office of Custodian General with a recommendation that the petitioners be granted compensation in terms of Section 14-A of the J&K Administration of Evacuees' (Administration of Property) Act and the Custodian General had also taken up the matter with the Government through Revenue Department. In this backdrop, the petitioners are entitled to the compensation to be assessed by the Government, for being paid, for their land in question.

13. Viewed thus, the petition is disposed of, directing the respondents to assess the compensation as per prevalent market

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

rate and make payment to the petitioners for land measuring 24 kanals and 1 marla falling under khasra No. 51 situated at village Thandi Kassi, Tehsil and District Rajouri. This exercise shall be undertaken and completed by the Revenue Department of the Government of J&K, within a period of 8 weeks from the date a copy of the judgment is made available to the Administrative Secretary of the Revenue Department of the Government of Jammu and Kashmir.

14. Pending application(s) also stands disposed of, accordingly.

(M.A Chowdhary)
Judge

Jammu:
06.11.2026
Naresh

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
सत्यमेव जयते

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

Naresh Kumar
2026.11.06 16:53
I attest to the accuracy and
integrity of this document