IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CM(M) No. 149/2026
CM No. 2585/2026

Reserved on: 05.05.2026
Pronounced on: 07 .05.2026
Uploaded on: 08 .05.2026
Whether the operative part or full judgment is pronounced: ***Full***

Ali Mohammad Dar …Petitioner(s)/Appellant(s).
S/O Ghulam Nabi Dar
R/O Sangam District Anantnag
Aged 52 years

Through: Mr. S. N Ratanpuri , Advocate

Vs.

1. **National Highways Authority of India through Project Director, NHAI, PIU, Srinagar.** ...Respondent(s).
2. **Collector Land Acquisition, Anantnag**

Through: Mr. Ilyas Nazir Laway, GA

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

JUDGEMENT
07.05.2026

BRIEF FACTS

1. The Petitioner in the instant petition is aggrieved of Order dated 04.02.2026 passed in an application under Section 151 of the Code of Civil Procedure read with Section 17-B of the J&K Land Acquisition Act, as also Order dated 27.04.2026 passed in an application seeking review of Order dated 04.02.2026, by the Court of learned Principal District Judge, Anantnag. The impugned orders as per the petitioner being contrary to law, facts, and settled

principles of procedure, are liable to be set aside and are accordingly challenged by way of the present petition under Article 227 of the Constitution of India.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel submits that land measuring 6 kanals and 2 marlas, along with structures existing thereon, belonging to the Petitioner, came to be acquired for the purpose of four-laning of the Srinagar–Jammu National Highway at Village Sangam, Bijbehara, District Anantnag.

3. It is submitted that the acquisition proceedings were conducted strictly in accordance with law and an award came to be passed. Being dissatisfied with the quantum of compensation, the Petitioner sought reference, which initially came to be declined.

4. It is submitted that upon intervention of this Court, the Collector was directed to consider the claim of the Petitioner under Section 18 of the J&K Land Acquisition Act, pursuant to which the matter was referred to the learned Principal District Judge, Anantnag. The Reference Court, after framing issues and recording evidence, passed a detailed award dated 15.07.2014, whereby, the petitioner was held entitled to the following compensation:

   i. "***Compensation of land measuring 6 kanals 2 marlas falling under survey No.271,272 and 273 situated at Sangam, Bijbehara, @ Rs.30 lac per kanal;***

ii. Compensation for Shane Kashmir Passenger Oriented wayside amenities project as per EXPW-1/1 amounting to Rs. 155.96 lacs;

iii. Compensation for construction of proposed single storey dormatry for Shane Kashmir, amounting to Rs. 11.27 lacs;

iv. Compensation for reinstallation of the petrol out let @ Rs.66.70,600/-; and

v. Compensation for loss of earnings from the date of notification till completion of the petrol out let Rs.24.00 lacs."

5. It is further submitted that the Reference Court clearly directed deduction of the amount already received from the total compensation.

6. Learned counsel lays particular emphasis on the fact that an amount of ₹1,02,54,693/- was paid towards cost of demolition of structures and was not part of compensation, which is explicitly recorded in the award itself.

7. It is submitted that this crucial aspect has been completely ignored by the Court below while passing the impugned orders.

8. It is submitted that the award dated 15.07.2014 was challenged by respondent No.1 before this Hon'ble Court in CFA No. 190/2014, which came to be dismissed on 25.08.2022 both on maintainability and also on merits.

9. Thereafter, the order passed by this Court in the above appeal came to be challenged before the Hon'ble Supreme Court by way of Special Leave Petition, SLP No. 21543/2022, which also came to be dismissed on 20.02.2024, thereby rendering the award final and binding.

10. Learned counsel submits that after finality of the award, respondent No.1 filed an application dated 06.08.2024 before the learned Principal District Judge, Anantnag, alleging excess payment.

11. It is contended that the said application was wholly vague, frivolous, and unsupported by any cogent calculation or legal basis, and was nothing but an attempt to reopen settled issues which had attained finality up to the Hon'ble Supreme Court.

12. It is submitted that despite detailed objections filed by the Petitioner demonstrating that all payments were made strictly in terms of the award, the learned Court below, without proper appreciation of facts and law, allowed the application vide order dated 04.02.2026 and directed recovery of ₹2,61,34,972/- (two crore, sixty one lakh, thirty four thousand and nine hundred seventy two rupees) along with interest @ 6%, from the date of receipt of the same.

13. The learned counsel for the petitioner further submits that review application filed by the Petitioner was also dismissed vide order dated 27.04.2026 without due consideration.

14. It is submitted that the learned Court below has gravely erred in treating the amount of ₹1,02,54,693/- paid towards demolition as part of compensation, despite a categorical finding in the award to the contrary.

15. It is further submitted that the Court below has wrongly calculated Jabirana @ 15% only on land compensation, whereas settled law mandates that the same is payable on the entire compensation including value of assets attached to the land.

16. Learned counsel submits that the adverse observations made by the Court below imputing fraud upon the Petitioner are wholly unwarranted, baseless and beyond jurisdiction, particularly when the Petitioner had no role in the computation or disbursement of the compensation.

17. It is contended that the direction to pay interest on the alleged excess amount is unjustified, inasmuch as any alleged excess payment, if at all, resulted from official calculations and not from any act or omission attributable to the Petitioner.

18. Per contra, learned counsel for the respondents submitted that the impugned order does not alter or modify the award but merely corrects an inadvertent mistake resulting in double payment and prevents unjust enrichment of the petitioner at the cost of public exchequer.

LEGAL ANALYSIS

19. Heard learned counsel for the parties at length and perused the material on record.

20. At the outset, this Court is conscious of the limited scope of jurisdiction under Article 227 of the Constitution of India. The supervisory jurisdiction is neither appellate nor revisional in nature and is to be exercised sparingly, only to keep subordinate courts within the bounds of their authority and to correct jurisdictional errors or manifest perversity.

21. The Hon'ble Supreme Court in P.Suresh Vs. D.Kalaivani & Ors. **reported as 2026 SCC OnLine SC 143** has held that:

> ***"The scope, ambit, amplitude and nature of the powers of a High Court under Article 227 of the Constitution are discussed and delineated by this Court in catena of decisions. Article 227 is perceived to be a custodian of justice, which is in the nature of extraordinary supervisory powers, discretionary in nature. In Shalini Shyam Shetty vs. Rajendra Shankar Patil1 , this Court cautioned that an improper and frequent exercise of this power will be counterproductive and would divest this extraordinary power of its strength and vitality. It was observed that this discretionary power has to be exercised very sparingly"***

22. The supervisory jurisdiction is meant to correct only jurisdictional errors, patent perversity, or grave injustice. It is not intended to interfere with findings of fact which have attained finality, nor to re-appreciate the evidence nor to sit in appeal over the findings of the Court below, particularly when the conclusions drawn are borne out from the record and are in consonance with settled principles of law.

23. The Hon'ble Supreme Court, in a catena of decisions, has consistently held that interference under Article 227 is warranted only in cases where there is patent lack of jurisdiction, manifest perversity, or gross miscarriage of justice. Mere possibility of a different view, or minor errors in appreciation of facts, do not justify invocation of such extraordinary jurisdiction.

24. In the present case, the record reveals that the learned Principal District Judge, Anantnag, has exercised jurisdiction under Section 151 CPC for a limited and well-defined purpose, namely, to correct an arithmetical or clerical error resulting in disbursement of an amount in excess of what was lawfully due under the award. Such exercise in the opinion of this Court falls squarely within the inherent powers of the Court to ensure that its process is not abused and that its orders are not rendered instruments of injustice.

25. It is also pertinent to note that the impugned orders do not involve any re-adjudication of rights, nor do they alter, modify, or review the award which has already attained finality up to the Hon'ble Supreme Court. The exercise undertaken by the Court below is confined to giving effect to the award in its true spirit by preventing duplication of payment and ensuring lawful adjustment.

26. This Court finds that the conclusions arrived at by the learned Court below are borne out from the record, supported by objective material, and based on

a rational appreciation of facts. No perversity, arbitrariness, or non-application of mind is discernible. On the contrary, the impugned orders reflect a careful exercise of jurisdiction aimed at preventing unjust enrichment and safeguarding public funds.

27. Accordingly, this Court holds that the impugned orders do not suffer from any jurisdictional infirmity, patent illegality, or perversity so as to warrant interference under Article 227 of the Constitution of India, and the same merit affirmation.

28. The principal contention of the Petitioner is that once the award dated 15.07.2014 attained finality, the Court below had become functus officio and could not have entertained an application under Section 151 CPC read with section 17-B of Jammu and Kashmir land Acquisition Act

29. It is well settled that the exercise of inherent powers under Section 151 CPC is not barred merely because the main proceedings have culminated, provided such exercise is aimed at preventing abuse of process or securing the ends of justice. The present case does not involve reopening or re-adjudication of the award; rather, it concerns correction of an inadvertent error leading to excess payment.

30. The Hon'ble Supreme Court in case titled **My Palace Mutually Aided Cooperative Society vs B. Mahesh reported as (2022) 19 SCC 806** held that:

> ***"In view of the above, the law on this issue stands crystallised to the effect that the inherent powers enshrined under Section 151 CPC can be exercised only where no remedy has been provided for in any other provision of CPC. In the event that a party has obtained a decree or order by playing a fraud upon the court, or where an order has been passed by a mistake of the court, the court may be justified in rectifying such mistake, either by recalling the said order, or by passing any other appropriate order. However, inherent powers cannot be used in conflict of any other existing provision, or in case a remedy has been provided for by any other provision of CPC."***

31. Section 151 Code of Civil Procedure (CPC) preserves the inherent powers of the Court to do real and substantial justice. The inherent powers of the Court are not exhausted upon the conclusion of proceedings rather they continue to subsist to prevent abuse of its process and to ensure that its orders do not occasion injustice.

32. In the present case, the jurisdiction exercised by the learned trial Court, while entertaining the application under Section 151 of the Code of Civil Procedure read with section 17-B of Jammu and Kashmir land Acquisition Act, was not for the purpose of reopening or re-adjudicating the award. The exercise was confined to ensuring that the award is executed in its true letter and spirit and that no party is permitted to derive an undue benefit at the cost

of the public exchequer. The recovery of an amount, which stands inadvertently paid in excess by no stretch of imagination can be construed as modification or alteration of the award.

33. It is well settled that the doctrine of restitution, embedded in Indian jurisprudence, mandates that no person can be permitted to retain a benefit to which he is not legally entitled. The Court, in exercise of its inherent powers, is duty-bound to correct its own mistake and to restore the parties to the position which they would have occupied .

34. The Hon'ble Supreme Court in the case titled ***Odisha Forest Development Corporation Ltd. v. M/s Anupam Traders*** **reported as (2022) 19 SCC806** has reiterated the well-settled principle that no party should suffer on account of an act of the Court. It was observed that:

> ***"The Court will have to bear in mind the maxim actus curiae neminem gravabit, namely, no party shall suffer due to the act of the Court."***

35. The learned Court below has merely exercised its inherent jurisdiction under Section 151 CPC read with 17B Of Land Acquisition Act, to rectify a manifest error in disbursement and to prevent unjust enrichment. Such an exercise squarely falls within the ambit of its powers.

36. Accordingly, this Court is of the considered view that the application under Section 151 CPC read with 17B Of Land Acquisition Act was maintainable in law, and the learned trial Court cannot be said to have acted without jurisdiction in entertaining and allowing the same.

37. The Petitioner has vehemently contended that an amount of ₹1,02,54,693/- was paid towards demolition of structures and did not form part of the compensation awarded under the judgment dated 15.07.2014, and therefore, could not have been taken into account for the purpose of adjustment.

38. At the outset, it requires to be noted that it is a well-settled principle of law that compensation under the land acquisition is not confined merely to the value of the land acquired, but extends to all interests therein, including structures and assets attached to such land.

39. The said payment was inextricably linked with the process of acquisition and constituted recompense for the structures standing upon the acquired land, being an integral component of the overall acquisition process.

40. Once while determining compensation in the award dated 15.07.2014, it has categorically being directed that the amount already received by the Petitioner shall be deducted from the total compensation so awarded, the said

direction necessarily encompassed all payments made to the Petitioner in relation to the acquired land and the assets appurtenant thereto.

41. Viewed thus, once the learned Reference Court, while determining compensation in the award dated 15.07.2014, had categorically directed that the amount already received by the Petitioner shall be deducted from the total compensation so awarded, the said direction necessarily encompassed all payments made to the Petitioner in relation to the acquired land and the assets appurtenant thereto.

42. Accordingly, this Court is of the considered view that the contention raised by the Petitioner, that the aforesaid amount i.e., Rs. 2,61,34,972/-, (two crore, sixty one lakh, thirty four thousand and nine hundred seventy two rupees) as wholly independent and immune from adjustment, is misconceived, devoid of merit, and liable to be rejected.

43. A conjoint and purposive reading of Section 17-B of the Jammu & Kashmir Land Acquisition Act makes it abundantly clear that the statute itself contemplates the possibility of excess payment at the stage of acquisition and provides a definite mechanism for its adjustment and recovery. The provision mandates that any amount paid or deposited under Section 17-A must be taken into account while determining the final compensation, and if such payment exceeds the amount ultimately awarded by the Collector under

Section 11, the excess amount does not vest in the claimant as a matter of right. On the contrary, the statute obligates the recipient to refund the surplus amount within the stipulated period, failing which the same becomes recoverable as arrears of land revenue. For facility of reference the same is reproduced as under:

> ***"17-B. Determination of compensation and recovery of excess amount. The amount paid or diposited under section 17-A, shall be taken into account for determining the amount of compensation re- quired to be tendered under section 32 and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 11, the excess amount may unless refunded within three months from the date of the Collector's award be recovered as an arrear of land revenue."***

44. It expressly stipulates that where the amount already paid exceeds the compensation awarded by the Collector under Section 11, such excess amount is not to be treated as a windfall or vested benefit in favour of the claimant. Rather, the statute casts a clear obligation upon the recipient to refund the surplus amount within the prescribed period, failing which the same is liable to be recovered as arrears of land revenue. The mechanism of recovery provided is stringent and summary in nature, underscoring the legislative intent that public funds must not be allowed to remain with a private party beyond lawful entitlement.

45. This Court is of the considered view that Section 17-B is a statutory embodiment of the doctrine of restitution under section 144 of Code of Civil Procedure (CPC). It reinforces the principle that compensation is not a matter of bounty but of strict legal entitlement, regulated by the scheme of the Act. Any amount paid in excess amount, howsoever occasioned by clerical mistake, or otherwise does not confer any indefeasible right upon the claimant.

46. The action of the Court below in directing adjustment/recovery of the excess amount is in complete consonance with the statutory mandate. Such direction merely ensures that the award is implemented in its true spirit and that the disbursement aligns with the compensation actually determined. To hold otherwise would tantamount to defeat the express provision of Section 17-B and to countenance unjust enrichment at the cost of public revenue, which the law does not permit.

47. The contention advanced on behalf of the Petitioner that Jabirana ought to have been computed on the entire compensation, including the value of structures and other appurtenant assets, has been carefully considered by the Learned Trial Court.

48. It is well settled that once an award attains finality, it cannot be reopened, reinterpreted in collateral proceedings. The proceedings before the learned

Trial Court under Section 151 Code of Civil Procedure (CPC) were neither in the nature of interpretation, modification, nor enhancement of the award. The limited scope of the application was confined only to examining, on the basis of the award as it stood, whether any excess amount had been paid to the Petitioner and whether such excess amount required adjustment or recovery in accordance with law.

49. Viewed thus, the contention of the Petitioner that Jabirana ought to be recalculated on the entire compensation is not available at this stage, more so when the award has attained finality having been affirmed up to the Hon'ble Supreme Court of India, and its terms, including the manner of computation, cannot now be reopened or reinterpreted under the guise of fresh calculation.

50. Accordingly, this Court is of the considered view that the learned Court below rightly refrained from entering into any such re-computation, and confined itself to the limited exercise of arithmetical adjustment in terms of the award. The contention of the Petitioner, therefore, does not merit acceptance and is liable to be rejected.

51. The core question which falls for determination is whether the Petitioner can be permitted to retain an amount of ₹2,61,34,972/-, (two crore, sixty one lakh, thirty four thousand and nine hundred seventy two rupees) which is admitted to have been received twice, as emerged from the record.

52. This Court is mindful of the settled law that governs the doctrine of restitution. The principle is not merely equitable but has been consistently recognised as an integral part of Indian civil jurisprudence. The object of restitution is to restore the parties to the position which they would have occupied but for the erroneous or unjust benefit conferred upon one party.

53. In **South Eastern Coalfields Ltd. v. State of M.P. (2003) 8 SCC 648**, the Hon'ble Supreme Court has authoritatively held that

> ***"In law, the term 'restitution' is used in three senses; (i) return or restoration of some specific thing to its rightful owner or status; (ii) compensation for benefits derived from a wrong done to another; (iii) compensation or reparation for the loss caused to another. (See Black's Law Dictionary, Seventh Edition, p.1315). The Law of Contracts by John D. Calamari & Joseph M. Perillo has been quoted by Black to say that 'restitution' is an ambiguous term, sometimes referring to the disgorging of something which has been taken and at times referring to compensation for injury done. "Often, the result in either meaning of the term would be the same. ..... Unjust impoverishment as well as unjust enrichment is a ground for restitution."***

54. Applying the aforesaid principle to the facts of the present case, this Court finds that the retention of the excess amount by the Petitioner, which has admittedly resulted from duplication of payment under the same compensation stream, would clearly amount to unjust enrichment. Such enrichment is not only impermissible in law but is also opposed to public interest, particularly when public funds are involved.

55. This Court is of the considered view that the learned Court below has correctly applied the principles of restitution and has rightly directed refund of the excess amount along with interest.

56. The next contention raised on behalf of the Petitioner that no interest can be imposed since the excess amount arose out of an computational error, does not merit acceptance.

57. This Court is of the considered view that once it is established that a party has retained an amount which, in law, was not due to him, the obligation to restitute does not remain confined merely to the principal sum. The principle of restitution, as, is not a narrow concept; it is a complete restorative mechanism aimed at placing the parties in the position they would have occupied but for the wrongful enrichment.

58. The Hon'ble Supreme Court in the case of **Sahakari Khand Udyog Mandal Ltd. -Vs.- Commissioner of Central Excise & Customs reported in (2005) 3 SCC 738** has held as follows:-

> ***"31. Simply stated, "unjust enrichment" means retention of a benefit by a person that is unjust or inequitable. "Unjust enrichment occurs when a person retains money or benefits which in justice, equity and good conscience, belong to someone else. 32. The doctrine of "unjust enrichment" postulates that no person can be allowed to enrich inequitably at the expense of another. A right of recovery under the doctrine of "unjust enrichment" arises where retention of a benefit is considered contrary to justice or against equity. 33. The juristic basis of the***

obligation is not founded upon any contract or tort but upon a third category of law, namely, quasi-contract or the doctrine of restitution."

59. This Court is of the considered view that the doctrine of unjust enrichment is founded on the principle that no person can be permitted to retain a benefit which, in justice, equity, and good conscience, belongs to another; and once it is shown from the record that the Petitioner has retained an amount not lawfully due to him, such retention becomes impermissible in law, thereby mandating restoration of the excess amount along with interest.

60. In the present case, the Petitioner admittedly had the benefit of the amount for a considerable period. Permitting retention of such benefit without compensating the value of its use would defeat the very object of restitution and would amount to allowing **unjust enrichment indirectly**.

61. Accordingly, this Court finds that the direction to pay interest at the rate of 6% per annum is just, reasonable, and in consonance with settled principles of law. The interest component awarded cannot be said to be excessive or arbitrary, but rather a balanced measure to ensure complete restitution

62. In the present case, a perusal of the review order dated 27.04.2026 demonstrates that the learned trial has correctly appreciated the limited scope of review jurisdiction. The Court has recorded a clear and unequivocal

finding that the excess amount released in favour of the Petitioner was the result of an inadvertent duplication in disbursement, which stood duly established from the record. The direction for refund was manifestly justified and aimed at ensuring faithful implementation of the award, and not in the nature of re-adjudication or modification thereof.

63. The grounds urged in the review petition, , do not disclose any error apparent on the face of the record, nor do they bring forth any new material warranting reconsideration. On the contrary, the attempt of the Petitioner was to re-agitate issues already considered and decided, which is clearly impermissible within the confines of review jurisdiction.

64. This Court is of the considered view that the learned Court below has exercised its jurisdiction in accordance with law and has returned findings which are well-reasoned and borne out from the material on record. No perversity, illegality, or jurisdictional infirmity is discernible in the impugned order.

65. Accordingly this court in agreement with the view taken by the learned trial court, and finds no ground to interfere with both orders which are subject matter of the instant petition.

CONCLUSION

66. Thus in the light of what has been discussed hereinabove coupled with the settled legal position, this Court is of the considered view that no case for interference under Article 227 of the Constitution of India is made out.

67. Further this Court is of the view that permitting the Petitioner to retain the excess amount would result in clear unjust enrichment at the cost of public funds, which is impermissible in law. The doctrine of unjust enrichment mandates that no person can be allowed to retain a benefit which is not legally due to him. Once it stands established from the record that an amount has been received in excess of lawful entitlement, the obligation to pay/restore the same arises, forthwith. Retaining the said excess amount would not only defeat the statutory scheme governing compensation but would also undermine the principles of equity, fairness, and public accountability.

68. Accordingly, this court is of the considered view that orders passed by the learned Principal District and Sessions Judge, Anantnag dated 04.02.2026 and 27.04.2026 are well-reasoned, and legally sustainable. The learned trial court has meticulously examined the entire record, and has applied settled principles of law. The reasoning adopted is neither arbitrary nor perverse;

rather, it reflects a careful and balanced judicial approach aimed at ensuring that no party is permitted to retain public money beyond lawful entitlement.

69. This Court further observes that the direction issued by the learned trial court to the petitioner to deposit the excess amount of Rs.2,61,34972/- (Rupees two Cores sixty one lakh thirty four thousand nine hundred ad seventy two only) along with 6% interest shall be complied with within a period of one month from the date of this order, as the time period to deposit the same in terms of the learned trial court order has since expired. It is further made clear that in case of failure on part of the petitioner to comply with the aforesaid direction within the stipulated period, the same shall be recovered as arrears in terms of the Land Revenue Act.

70. Accordingly, this Court does not find any illegality /infirmity or perversity in the impugned orders dated 04.02.2026 and 27.04.2026 passed by the learned Principal District Judge, Anantnag and the same are hereby upheld.

71. Before parting, this court would like to observe that filing of review petition by the petitioner after earning dismissal in the application under Section 151 of the Code of Civil Procedure (CPC) read with Section 17-B of the Land Acquisition Act was a tactics to avoid depositing of the excess public money and even after dismissal of the review petition, the petitioner has made another attempt to file the instant petition by invoking the supervisory

jurisdiction of this Court under Article 227 of the Constitution on false and flimsy grounds in absence of any perversity, jurisdictional infirmity, patent illegality and that too urging similar grounds and facts which have been gone in detail by the learned trial court by cogent reasons.

72. The petition, being devoid of any merit, is accordingly **dismissed.**

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
07-05-2026
Mubashir

i. Whether the judgment is speaking: Yes
ii. Whether the judgment is reportable: Yes