

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

**RP No.64/2023**  
c/w  
**CCP(D) No.63/2022**  
**WP(C) No.2199/2023**

**NUSRAT JAN**

**...PETITIONER(s)**

Through: Mr. A. H. Naik, Sr. Adv. with Mr. Zia (for  
petitioner(s) in RP No.64/2023 & WP(C)  
No.2199/2023)

Mr. Rizwan, Adv.(for petitioner(s) in CCP(D)  
No.63/2022)

V/s

**MOHAMMAD RAMZAN NAIK & ORS.**

**...RESPONDENT(S)**

Through: Mr. Rizwan, Adv. (for respondents in RP  
No.64/2023)

Mr. Faheem Nisar Shah, GA (for respondent(s)  
in CCP(D) No.63/2022 and WP(C)  
No.2199/2023)

**CORAM:HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**(ORDER)**

**01.09.2023**

1. By this common order, afore-numbered contempt petition and review petition are proposed to be decided.

**CCP(D) No.63/2022**  
**RP No.64/2023**

2. It appears that the contempt petitioners, Mohammad Ramzan Naik and others, had filed a writ petition bearing OWP No.723/2010 before

this Court. In the said writ petition, award dated 23.05.2008 regarding payment of compensation to the contempt petitioners in terms of the award for the land measuring 5 kanals 19 marlas falling under Survey No.1311/224, 3 kanals 13 marlas falling under Survey No.1312/224 and 8 kanals 01 marlas falling under Survey No.1313/224 situated at Village Pahalgam, was brought under challenge. It was the contention of the contempt petitioners that the impugned award is incorrect as it denies compensation to them in respect of some of the land and that the apportionment statement attached with the award is incorrect. It was contended that the award contains an incorrect statement of apportionment of compensation and the contempt petitioners are entitled to more share vis-à-vis private respondents No.11 and 12 who happen to be the petitioners in WP(C) No.2199/2023.

3. The aforesaid writ petition came to be disposed of by the Division Bench of this Court in terms of order dated 03.08.2022. The operative portion of the order reads as under:

*In view of aforesaid facts and circumstances, we do not deem it proper to exercise our discretionary jurisdiction in the matter and dismiss the writ petition with liberty to the petitioners to take appropriate remedy of reference as may be advised to them under law. At the same time, we direct the respondents to deposit the entire compensation falling into the share of petitioners as per the impugned award and the apportionment statement with the Collector within a period of six weeks from today.*

4. The contempt petitioners alleged non-compliance of the afore-quoted directions by the official respondents and filed a contempt petition before this Court. It has been alleged in the contempt petition

that the contempt petitioners had filed an application before the Collector for making a reference and for deposition of entire compensation falling to their share but the same has not been done.

5. The Collector filed his statement of facts in answer to the contempt petition wherein it has been submitted that notice has been issued to respondent No.11 in the main writ petition bearing OWP No.723/2010, namely, Mohammad Ramzan, who has deposited an amount of Rs.3.00 lacs and furnished an undertaking to deposit the rest of the amount within a period of five months. A stand has been taken by the Collector that vide order dated 03.08.2022, it is the private respondents who were to deposit the entire compensation falling into the share of contempt petitioners with the Collector. The Collector has issued notices dated 08.08.2023 against Mohammad Ramzan and Nusrat Jan asking them to deposit the amount. These notices have been challenged by the aforementioned persons by way of a fresh writ petition bearing WP(C) No.2199/2023.

6. During pendency of the contempt petition an order came to be passed by this Court on 18.08.2023, whereby it was observed that the direction for deposition of compensation in terms of order dated 03.08.2022 passed in OWP No.723/2010 was, in fact, a direction against respondents No.11 and 12 to the said writ petition i.e. petitioners in WP(C) No.2199/2023 and, accordingly, the Collector was permitted to continue to proceed against respondents No.11 and 12 so as to facilitate the compliance of order dated 03.08.2022.

7. The review petitioners, who happen to be the petitioners in WP(C) No.2199/2023 have sought review of the aforesaid direction dated 18.08.2023, contending that the order dated 03.08.2022 has not been appreciated by this Court in its correct perspective and on the same ground they have also challenged the notices of demand issued by the Collector against them by way of WP(C) No.2199/2023.

8. Heard and considered.

9. So far as order dated 03.08.2022 passed by the Division Bench in OWP No.723/2010 that was filed by the contempt petitioners, Mohammad Ramzan Naik and others, is concerned, it gives liberty to the contempt petitioners to take appropriate remedy of reference so as to get determination of dispute as regards the apportionment of the compensation. At the same time, in terms of the said order, the respondents to the said writ petition were directed to deposit entire compensation falling into the share of the petitioners as per the impugned award and the apportionment statement with the Collector. In terms of the award dated 30.05.2008, that was impugned in OWP No.723/2010, the compensation stands deposited with the Collector and respondents No.11 and 12 to the said writ petition, who happen to be the writ petitioners in WP(C) No.2199/2023, have already received their share in terms of the apportionment statement. The contempt petitioners claim that said apportionment statement is not correct but the direction of the Division Bench is that the compensation falling into the share of the petitioners as per the impugned award is to be deposited with the

Collector. The said amount stands deposited with the Collector and in case the same has not been deposited, the Collector has to get it from the intending department but private respondents No.11 and 12 cannot be asked to refund the amount and deposit the same with the Collector at this stage until the reference is decided by the Reference Court if and when the contempt petitioners avail such remedy as per the liberty granted to them by the Division Bench. This is the correct interpretation of order passed by the Division Bench.

10. This Court while passing order dated 18.08.2023 has not properly appreciated the letter and spirit of order dated 03.08.2022 passed by the Division Bench which has resulted in passing of order dated 18.08.2023. It was never the intention of the Division Bench to seek deposition of compensation assessed and disbursed under the award dated 23.05.2008 before the Collector but as per order dated 03.08.2022, only that portion of the compensation was to be deposited with the Collector which had come to the share of the contempt petitioners in terms of the award dated 23.05.2008 and the apportionment statement annexed thereto. Admittedly, the amount in terms of award 23.05.2008 stands deposited with the Collector which includes the amount falling to the share of the contempt petitioners in terms of the apportionment statement, which according to the contempt petitioners is not correct. Therefore, there was no occasion for this Court to ask the Collector to get this amount from private respondents No.11 and 12. Order dated 18.08.2023, therefore, deserves to be reviewed and is accordingly reviewed. Review petition shall stand **disposed** of.

11. That takes us to the contempt petition. In the contempt petition, the petitioners allege that order dated 03.08.2022 has not been complied with by the respondents, inasmuch as they had approached the Collector but the amount has not been released in their favour nor the reference has been made.

12. The direction made by the Court in its order dated 03.08.2022 was not the one relating to release of compensation in favour of contempt petitioners nor there was any direction for making a reference. The contempt petitioners were only given liberty to approach the Collector for reference. Thus, the respondents have not violated any direction of the Court, as such, no ground for proceeding against them is made out. The contempt proceedings are, accordingly, dropped and the petition is dismissed.

**WP(C) No.2199/2023:**

Mr. Faheem, GA, enters appearance on behalf of the respondents. Learned counsel for the petitioners is directed to furnish copy of the petition for Mr. Faheem, who may file his response by the next of hearing.

Be listed on 4<sup>th</sup> October, 2023.

Interim direction, if any, to continue till next date before the Bench.

**(SANJAY DHAR)  
JUDGE**

**Srinagar**  
**01.09.2023**  
**"Bhat Altaf, PS"**