

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

Case: OWP No. 403 of 2014

Suhail Gupta

.....Appellant/Petitioner(s)

Through :- Sh. Siddhant Gupta, Advocate.

v/s

State of J&K and Others

.....Respondent(s)

Through :- Sh. S S Nanda, Sr. AAG.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

28.04.2022

1. The dispute in the writ petition is regarding 1 kanal of land comprised of Khasra No. 826 situate at village Batote.
2. The petitioner alleges that the aforesaid land was never acquired but its possession was illegally taken over by the respondents in the year 1994-95. Despite the fact that the respondents are in possession, they are neither acquiring the land nor paying any compensation thereof. Thus, the petitioner has filed this writ petition seeking direction that (i) the respondents should be directed to vacate the said land and restore it to the petitioner; (ii) to acquire the land and pay compensation for the same at the prevailing market rate; and (iii) to pay rental compensation from 1994-95 for the use and occupation of the said land till the date of its acquisition.
3. The respondent no. 5-Deputy Commissioner, Ramban, on the directions of this Court, has filed a compliance report stating that out of the 1 kanal of land, 9 marlas has come under the alignment of the road constructed from Batote to Boonbari and remaining 11 marlas is in continuous possession of the

Forest Department on which their Sale depot is in existence. The aforesaid 1 kanal of land is proprietary land of the petitioner, now his grandson Suhail Gupta.

4. Since 9 marlas of land is in alignment of the road which has been constructed by the PWD (R&B) Department, we direct for the impleadment of Secretary, PWD(R&B) Department as respondent no.7 who may file counter affidavit to the petition within a month.

5. The short question which arises in this petition is whether any of the respondents could have taken law into their own hands and have forcibly occupied the land of the private person, thus, depriving him of his basic human right i.e. Right to Property which is a constitutional right guaranteed by Article 300 A of the Constitution of India.

6. In view of the above, we call upon all the respondents to show-cause why appropriate action may not be taken against them for violating the above right of the petitioner and how they propose to compensate the petitioner in this regard.

7. List on 20.07.2022.

(MOKSHA KHAJURIA KAZMI)
JUDGE

(PANKAJ MITHAL)
CHIEF JUSTICE

JAMMU
28.04.2022
Raj kumar