

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No. 1147/2013

Subash Chander and others

.... Petitioner/Appellant(s)

Through:- Mr. L.K. Sharma, Sr. Advocate with
Mr. Mohit Kumar, Advocate

V/s

State and others

.....Respondent(s)

Through:- Ms. Chetna Manhas, Advocate vice
Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

ORDER

09.12.2024

CM No. 7699/2022

1. This application is under Order 6 Rule 17 CPC to amend the writ petition to include the relief of statutory interest payable by the respondents along with the compensation settled.
2. Learned counsel appearing for the applicants/petitioners submits that while seeking quashing of order of Deputy Commissioner, Udhampur dated 08.07.2013, and seeking writ of mandamus for release of compensation in favour of the petitioner as a whole, the petitioner inadvertently omitted to claim statutory interest payable on the awarded amount for the delay in releasing the compensation. The respondents are bound to pay the compensation as settled in apportionment table attached with the award, along with interest in terms of J&K Land Acquisition Act.
3. The applicants have relied upon the judgment of the Apex Court in **“Vijay Cotton & Oil Mills v. State of Gujarat”**, AIR (SC) 656, wherein it is held that:

“Once the provisions of Section 34 are attracted, it is obligatory for the Collector to pay interest, and if he fails to do so, the same can be claimed from the court in proceedings under section 18 of the Act or even from the appellate court thereafter. Reading section 23 with section 26 of the Act, it is clear that the award, which is deemed to be a decree, is the sum total of the conclusions reached by the court in determining the compensation under section 23 of the Act, based on the appreciation of the evidence between the parties. The costs under section 27 and the interest under sections 28 and 34 are added to the compensation amount to form a consolidated award.”

4. The respondents have objected to this application on the ground that the petitioners have not sought amendment within the reasonable time and have filed the application after a considerable delay. According to them, since the application to amend the writ petition is filed after the huge delay, they are entitled only to the awarded amount as a ‘qabaz’ and not as an ‘owners’.
5. Heard learned counsel for the parties.
6. Although the petition was filed in the year 2013 and this application has been filed after a considerable delay, the fact of the matter remains that the petition is still pending consideration. The only amendment sought is with regard to the inclusion of statutory interest, which does not change the nature or scope of the petition.
7. In view of the aforesaid, this application is allowed. The amended writ petition be filed within a period of three weeks.
8. Application is **disposed of** accordingly.
9. List the main matter on 11.03.2025.

(SINDHU SHARMA)
JUDGE

Jammu:
09.12.2024
Vishal