

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

Case:- WP(C) No. 952/2020

Tara Chand and othersAppellant(s)/Petitioner(s)

Through: Mr. S. C. Mansotra, Advocate.

Vs

UT of J&K and others Respondent(s)

Through: Ms. Nazia Fazal, Advocate vice
Mrs. Monika Kohli, Sr. AAG.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

(08.12.2023)

The entitlement of the petitioners to earn the release of compensation awarded is beyond any dispute and denial given the fact that the petitioners figure in the final land acquisition award no. SDM/H/CHS/221-28 dated 28.08.2015 passed by the Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar but the release of compensation payable in favour of the petitioners did not take place, simultaneously with the issuance of the land acquisition award which constrained the petitioners to come forward with this writ petition in the year 2020.

The petitioners have named the respondents no. 4 to 6 as being the persons by whose unwarranted indulgence in the matter, the petitioner reckoned that the deferment of payment of compensation in their favour was taking place at the end of the Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar and that was at the behest of the private respondents no. 4 to 6 who, as per the petitioners, by no stretch of reference and record are related to the

land acquired and as such having no claim for compensation in any manner whatsoever.

In this petition, the private respondents no. 4 to 6 came to cause their appearance through counsel in October, 2021 and till date came forward with no response to this writ petition.

Instead, it seems that the respondents no. 4 to 6 opted for a reference by submission of an application to the Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar who vide an order dated 06.02.2021 came to submit a reference to the Principal District Judge, Kathua. A copy of the reference order is enclosed with the reply/objections filed on behalf of the official respondents.

A perusal of this reference order reveals that the Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar has nowhere mentioned as to when the applicant Bui Lal and Surinder Kumar, who are respondents no. 4 & 5 herein, came to submit the application for seeking reference of the award for adjudication of their entitlement to claim compensation. The Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar has not at all adverted in his reference order as to how the period of limitation has been attended to this case and what is the locus on which the said respondents no. 4 & 5 i.e. Bui Lal and Surinder Kumar claimed themselves entitled to be shareholders in the compensation otherwise payable in favour of the petitioners.

Learned counsel for the petitioners submits that the petitioners till date have not been notified about the reference proceedings by the Court of the

Additional District Judge, Kathua before whom the proceedings came to be transferred.

Given the fact that the purported reference proceedings are so lying before the Additional District Judge, Kathua and that too generated after the pendency of the writ petition, this Court would like to examine the record of the said reference proceedings because while on one hand the respondents no. 4 to 6 have evaded to file reply/response to the writ petition before this Court despite having appeared and on the other hand taking themselves to seek reference of the case from the Collector Land Acquisition (Sub Divisional Magistrate), Hiranagar. This Court reckons that there is something more than what meets the eye in terms of the conduct of the respondents no. 4 & 5 as such this Court directs summoning of record of the reference so pending disposal before the Court to the Additional District Judge, Kathua.

Let the Registrar Judicial, Jammu summon the said record from the Additional District Judge, Kathua on an urgent note.

List this case on 29.12.2023 alongwith the record so requisitioned.

(RAHUL BHARTI)
JUDGE

JAMMU
08.12.2023
Shivalee