

**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

(29.12.2023)

1. In terms of final land acquisition award no. SDM/H/CHS/221-28 dated 28.08.2015 issued by the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar, land measuring 19.10 kanals in khasra no. 77/52 old (khasra no. 280 new) of village Rathua, tehsil Hiranagar, district Kathua for establishment of small arms firing range by the 68th Battalion, BSF came to be acquired. The names of the owners entitled to receive compensation of an amount of Rs. 22,87,350/- came to be reflected in the apportionment statement and the petitioners are one of those named owners.

2. When the payment of the compensation amount did not take place in their favour for reason not known to them, the petitioners came to suffer an impression that it is at the instance of the respondents no. 4 to 6 that the Collector Office of SDM, Sub Divisional Magistrate, Hiranagar was deferring the payment on one pretext or other and therefore the petitioners approached this Court with the present writ petition filed on 17.03.2020 seeking a mandamus unto the respondents no. 1 to 3 for release of the compensation amount in favour

of the petitioners and other named owners as are entitled to earn the payment of compensation which do not include the respondents no. 4 to 6 by any stretch of reference or claim.

3. It is only through the reply filed on behalf of the official respondents, a fact came out that the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar-respondent no. 3 has made a purported reference under Land Acquisition Act, Svt., 1996 which is pending adjudication before the court of Additional District Judge, Kathua and that purported reference is at the instance of the respondents no. 4 & 5.

4. This Court came to be taken by concern as to how come a time barred reference has come to take place from the end of the respondent no. 3 at the instance of the respondents no. 4 & 5, as such in terms of an order dated 08.12.2023 this Court came to direct summoning of the record of the reference from the court of Additional District Judge, Kathua which came to be received, accordingly.

5. From perusal of the record of the said reference, an order dated 06.09.2021, passed by the Principal District Judge, Kathua before whom at the relevant point of time, the reference proceedings, were pending before getting transferred to the Additional District Judge, Kathua, bares open the real trouble spot in the case and that is without any reference made by the Collector Land Acquisition on the file, the reference proceedings have been commenced.

6. Order dated 06.09.2021 passed by the Principal District Judge, Kathua is reproduced herein for the sake of reference:

“There is no order of reference made by the Collector on the file. Counsel for the petitioner shall argue whether the petition is maintainable or not. Put up for arguments on 22.09.2021”.

7. The reference proceedings are held up at the same very stage although in terms of an order dated 23.05.2022 proceedings of the purported reference came to be transferred to the Additional District Judge, Kathua on the plea that the identical cases are pending before the Additional District Judge, Kathua and accordingly the case came to be transferred to the Additional District Judge, Kathua from where the record of the case has come for the perusal of this Court.

8. Given the state of proceedings in the case, there is no doubt to the fact that the petitioners and the other owners, whose names find mentioned in the land acquisition award entitled for receiving the compensation of an amount of Rs. 22,87,350/-, are suffering injustice at the hands of none else than the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar as well as also on the part of the reference Court which has put up with proceeding of the case which by the Principal District Judge, Kathua's own reckoning there is no order of reference for initiation of proceedings be it referable to section 18 or section 31 of the Land Acquisition Act, Svt. 1996 and still the matter is going on proceedings the Principal District Judge, Kathua.

9. Adding insult to the injury, the deposit of the compensation of an amount of Rs. 22,87,350/- from the end of the BSF also came to suffer delay of more than two and half years as it is only on 06.03.2018 that the cheque for the requisite amount came to be deposited by the BSF with the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar who in turn deposited the

compensation amount with the Government Treasury on 16.03.2018 and ever since then the money is lying deposited under Account Head no. 8443.

10. This Court is inclined to end the wait of the petitioners for receiving the compensation and before that can be done this Court directs the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar to submit a statement of share-wise entitlement of the land owners to receive the compensation amount of Rs. 22,87,350/- and accordingly, for that purpose the requisite statement be submitted before this Court by or before the next date of hearing.

11. The petitioners are well within the right to assist the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar in this regard. Similarly, other owners named in the award shall also be entitled to appear before the Collector Land Acquisition (Sub-Divisional Magistrate), Hiranagar and assist in working out.

12. In the meantime, Mr. Adarsh Sharma, learned counsel for the respondents no. 4 to 6 is granted four weeks time as last and final opportunity to submit reply/objections to the writ petition failing which the right to file the same shall stand closed.

13. List on 28.02.2024.

(RAHUL BHARTI)
JUDGE

JAMMU
29.12.2023
Shivalee