



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

CJ Court

**Case No. LPA No. 149/2025 in
[WP(C) No. 932/2025]**

Karnail Singh

.....Appellant(s)/Petitioner(s)

Through: Mr. Ajay Kumar, Adv.

Vs

Union of India and others

..... Respondent(s)

Through: Mr. Vipin Gandotra, Adv. for Nos. 2 and 3
Ms. Sagira Jaffer, Adv. vice
Ms. Monika Kohli, Sr. AAG for Nos. 5 and 6

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

**ORDER
21.04.2026**

- 1 The appellant had filed the writ petition bearing WP(C) No. 932/2025 for quashing the order dated 10.01.2020 passed by the respondent No. 3 and for commanding the respondents to acquire the land of the petitioner, appellant herein measuring 26 kanals 19 marlas comprising khasra No. 1004 situated at Village Bali, Tehsil and District Udhampur and accordingly, make the payment of compensation at the market rate of the land to the appellant. The appellant further sought a direction requiring the respondents to pay interest at the rate of 10% per annum, calculated from the date of the illegal land acquisition until the date of actual payment.
- 2 Learned Writ Court vide its order dated 21.04.2025 dismissed the writ petition by observing that after having accepted the order impugned dated



10.01.2020 issued by the Project Director, NHAI, respondent No. 3 herein for more than five years without any demur by virtue of which M/s Gammon India Limited has legally entered into an understanding with the rightful owner (Sh. Balwan Singh) of the land used for muck dumping, whereby, it has been held that Balwan Singh is the owner of the land in question, the petitioner/appellant herein is estopped under law to question the said order at this belated stage. It is also observed in the order impugned that petitioner/appellant herein has raised disputed question of facts to the extent of ownership of the land in question and the instant petition to that extent is not maintainable and the relief prayed for by the petitioner/appellant herein, cannot be acceded to.

3 The appellant has impugned the order of the Writ Court dated 21.04.2025 on the grounds *inter alia* that the delay caused in filling the Writ Petition was explained in para 10 of the said petition that the appellant had filed a contempt petition bearing CPOWP No. 91/2019 and the proceedings in the said contempt petition were closed on 11.08.2023 with a liberty to the appellant to assail the order impugned but the learned Writ Court without considering the said fact, dismissed the Writ Petition preferred by the appellant in *limine*.

4 Heard learned counsel appearing for the parties and perused the record.

5 It was contended by the appellant in the writ petition that he owned the land measuring 26 kanals 19 marlas comprising khasra No. 1004 situated at Village Bali, Tehsil and District Udhampur and the respondents were required to put to notice before passing any final order.



- 6 A perusal of the order impugned reveals that the learned Writ Court in para 12 of the order has observed that after having accepted the order impugned dated 10.01.2020 for more than five years without any demur by virtue of which M/s Gammon India Limited has legally entered into an understanding with the rightful owner (Sh. Balwan Singh) of the land used for muck dumping, whereby, it has been held that Balwan Singh is the owner of the land in question, the petitioner is estopped under law to question the said order at this belated stage. Learned Writ Court, while returning the findings, has not taken into consideration the averments made by the appellant in para 10 of the Writ Petition, wherein he had mentioned the pendency of contempt proceedings and liberty granted to him to assail the order passed by the respondents, though the learned Writ Court had noted the said contention of the appellant in para 7 of the order impugned.
- 7 In light of the foregoing, we are of the considered view that given the explanation tendered by the appellant in paragraph 10 of the Writ Petition regarding the pendency of contempt petition and liberty granted to assail the order passed by the respondents, the learned Writ Court should not have dismissed the petition *in limine*. Furthermore, in the absence of a response from the respondents, the court prematurely concluded that disputed questions of fact regarding ownership were involved. Such a finding should only have been reached after the respondents had actually filed a response contesting the appellant's status regarding the land.
- 8 Accordingly, we allow the instant intra-court appeal and set aside the order dated 21.04.2025. The matter is remanded to the learned Writ Court



for fresh consideration and disposal in accordance with the law, after first seeking a response from the respondents. Needless to say, we have not examined the merits of the parties' claims; any observations made herein shall not be construed as an expression of opinion on the merits of the case.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
21.04.2026
Rakesh PS

Whether the judgment is speaking:	Yes/No
Whether the judgment is reportable:	Yes/No

