

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

Case:- WP(C) No. 2067/2019

Mohd. Hamid Khan and Ors.Appellant(s)/Petitioner(s)

Through: Mr. M. R. Qureshi, Advocate.

Vs

**Commissioner/Secretary to
Revenue Department and
Ors.**

..... Respondent(s)

Through: Ms. Aparna Gupta, Assisting counsel
vice
Mrs. Monika Kohli, Sr. AAG.

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

ORDER
(20.11.2023)

- 01.** The petitioners are successor-in-interest of Ghulam Mohd Alias Gabbu Khan and it is in said status that they are coming forward as a petitioners.
- 02.** Said Ghulam Mohd Alias Gabbu Khan purportedly came forward with an application made in 1976 before the Deputy Commissioner, Poonch vested with the powers of the Additional Custodian thereby purportedly seeking restoration of evacuee property under Section 14 of the Jammu and Kashmir Evacuees (Administration of Property) Act, Svt. 2006. The land sought to be restored was obtaining in three villages, namely, Digwar Maldaliyian, Noorkote and Nakerkote tehsil Haveli district Poonch.

- 03.** The application to this effect was allegedly made on 02.02.1976 in response to which vide an order dated 28.04.1978 the restoration came to be recommended by the Tehsildar (Assistant Custodian), Haveli in terms of Annexure-III to the writ petition.
- 04.** Said Ghulam Mohd alias Gabbu Khan came to demise in the year 1984.
- 05.** In February 1999, vide letter no. CG(EP)1391/99-116 of the Custodian General, J&K was addressed to Revenue Department, Govt. of Jammu and Kashmir through its Commissioner/Secretary to Govt., Revenue Department, J&K, Jammu a case for payment of compensation in favour of legal heirs of said Ghulam Mohd alias Gabbu Khan and one Mst. Satra Begum under Section 14A of the Jammu and Kashmir Evacuees (Administration of Property) Act, Svt. 2006 was put up. This communication is obtaining as Annexure-IV to the writ petition.
- 06.** Pursuant to this communication, notification nos. 33-LB of 2001 & 34-LB of 2002 dated 20.09.2001 and 15.05.2002 respectively came to be issued by the Secretary to Govt., Revenue Department, Govt. of J&K purportedly issued in exercise of power under Section 14A of the Jammu and Kashmir Evacuees (Administration of Property) Act, Svt. 2006 thereby declaring the decision of the Government to

acquire the aforesaid land comprised in khasra numbers as mentioned in the said notifications in view of the fact that the displaced persons (DPs) in possession of the land so resorted in favour of Ghulam Mohd alias Gabbu Khan and one Mst. Satra Begum was not liable to vacation. Said two notifications are on record of this file.

07. Said two notifications are said to have resulted in issuance of an Award nos. DCP/LA/929-34 dated 25.08.2015 and DCP/LA-1080-85 dated 10.09.2015 issued by the Collector Land Acquisition (ACR), Poonch thereby purportedly recommending compensation of ₹6,18,22,861/- and ₹1,21,94,875/-. For the alleged restored land of said Ghulam Mohd alias Gabbu Khan and his legal heirs were held entitled to be paid compensation was 47.19 kanals.

08. As per the said award, the payment of proposed compensation was to be @4% per annum in terms of Section 14-B of the Jammu and Kashmir Evacuees (Administration of Property) Act, Svt. 2006 payable from the date of notification issued under Section 14-A of the said Act and which being the year 2001 and 2002.

09. This purported passing of two awards resulted in an onward exercise in terms whereof requisite funds were sought for enabling the payment of compensation and in this regard the Divisional Commissioner, Jammu's letter

no. 502/2783/Compensation/Evacuee/P/16/2651-53 dated 27.12.2016 addressed to the respondent no. 1 – Commissioner/Secretary to Govt., Revenue Department J&K, Civil Secretariat Jammu came into picture.

10. Against this backdrop, Govt. Order no. 41-REV(EP) of 2019 dated 12.03.2019 came to be issued by the Commissioner/Secretary to Govt., Revenue Department, J&K in terms whereof the payment of interest was revised to be payable from the date of issuance of notifications in the year 2001 and 2002 and not from the date of restoration order dated 28.04.1978.

11. It is on this issue as to from which date the computation of interest and its payment thereof on the amount of compensation awarded in favour of said Ghulam Mohd alias Gabbu Khan and one Mst. Satra Begum has to take place that the present writ petition is coming forward at the instance of the successors-in-interest of Ghulam Mohd alias Gabbu Khan.

12. On the record of this file, this Court does not find the entire record available as this Court has not come across with the awards so passed by the Collector Land Acquisition (ACR), Poonch which are DCP/LA/929-34 dated 25.08.2015 and DCP/LA-1080-85 dated 10.09.2015.

- 13.** This Court also does not find any approval from the Govt. for enabling the process for acquisition of the aforesaid lands for enabling the Collector Land Acquisition (ACR), Poonch to undertake award passing exercise.
- 14.** Accordingly, before proceeding further, this Court directs the respondent no. 1 – Commissioner/Secretary to Govt., Revenue Department, J&K to produce the aforesaid two awards and also the requisite approval of the Govt. of Jammu and Kashmir for acquisition of the restored land. Needful be done within a period of four week failing which this Court shall be constrained to direct personal appearance of Commissioner/Secretary to Govt., Revenue Department, J&K.
- 15.** List on 29.12.2023.



सत्यमेव जयते

(RAHUL BHARTI)
JUDGE

JAMMU
20.11.2023

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