

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CM No. 04/2025 in

CFA No. 16/2011

Indian Oil Corp. Ltd.

.... Petitioner/Appellant(s)

Through:- Mr. D. C. Raina, Sr. Advocate with
Mr. Anuj Dewan Raina, Advocate

V/s

Collector Land Acquisition & anr.

.....Respondent(s)

Through:- Ms. Chetna Manhas, assisting counsel
to Mrs. Monika Kohli, Sr. AAG
Mr. M. A. Bhat, Advocate

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

ORDER

03.01.2025

01. This application has been filed by the appellant seeking permission of this Court to furnish the security/bank guarantee to the extent of the amount as directed by this Court.

02. The appellant has preferred a Civil First Appeal against the judgment and decree dated 18.07.2011 passed by the learned Principal District Judge, Jammu in File No. 9/LA titled '*Jaswant Raj vs. Collector Land Acquisition and ors*'. The learned District Judge in reference under Section 18 of the Land Acquisition Act held the claimants entitled to compensation of Rs. 2.00 lacs per Kanal in respect of the land acquired pursuant to the award dated 06.08.2001.

03. This appeal was admitted to hearing on 08.08.2011 and the operation of the impugned judgment dated 18.07.2011 was stayed.

04. Vide order dated 10.10.2024, this Court directed as under:-

'This appeal is pending since 2011, which has been filed against the judgment dated 18.07.2011 passed by the

learned Principal District Judge, Jammu in reference under Section 18 of the Land Acquisition Act. The award amount has not been deposited.

However, the appellant is required to deposit the award amount which has not been deposited, therefore, the appellant shall deposit the award amount within a period of one month.'

04. The appellant filed an application (CM No. 6537/2024) seeking modification of the order dated 10.10.2024 and also for hearing of the case for its final adjudication. This application was decided by this Court vide order dated 28.11.2024 holding as under :-

8. *In the present case, while passing order dated 10.10.2024, this Court has only followed the mandate of sub-rule (3) of Rule 1 of Order 41 CPC and merely because the said mandate was not followed by this Court at the time of staying the execution of the impugned decree, does not debar this Court from passing the order for deposition of the amount in dispute at this stage. In fact, as per sub-rule (5) of Rule 5 of Order 41 of CPC, if appellant fails to deposit the decretal sum as ordered by the appellate court in terms of sub-rule (2) of Rule 1 of Order 41 of CPC, the Court cannot stay the execution of the decree.*

9. *In view of the above, I do not find any merit in this application. The same is dismissed, accordingly. However, appellant/applicant is granted further one month's time to comply with order dated 10.10.2024, failing which, the interim order dated 08.08.2011 staying the execution of the impugned judgment and decree shall stand vacated and it shall be open to the decree holder to seek execution of the decree before the appropriate forum.*

05. The appellant/applicant has preferred the present application seeking permission of this Court to furnish the security/bank guarantee to

the extent of the amount as directed by this Court keeping in view the status and entity of the appellant being a government controlled public sector undertaking in terms of Order-41 Rule-5.

06. The application for modification of the order dated 10.10.2024 already stands dismissed by this Court holding that while passing the order dated 10.10.2024, this Court has only followed the mandate of Sub-Rule (3) of Rule-1 of Order 41 CPC and directed the applicant to deposit the amount and the application was dismissed by giving further one month's time to comply the order dated 10.10.2024.

07. The applicant is essentially seeking review/modification of the order dated 10.10.2024 and 28.11.2024. The application of modification of order dated 10.10.2024 was dismissed with a reasoned order. The applicant without depositing the amount has again sought review of the same without any justifiable reasons.

08. Any direction in this application would amount to review the order dated 28.11.2024 which is not permissible.

09. In view of the aforesaid facts and circumstances of the case, there is no merit in this application and the same is dismissed.

10. Learned counsel for the appellant/applicant seeks and is granted some more time to deposit the amount in terms of the order dated 10.10.2024. The same be deposited by the next date of hearing i.e., 06.02.2025.

(SINDHU SHARMA)
Judge

JAMMU
RAM MURTI/PS
03.01.2025