

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

**WP(C) No. 395/2025
CM No. 851/2025**

Abdul Gani and another

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

Through: Mr. Irfaan Khan, Advocate
Mr. Nauman Yaseen Khan, Advocate.

vs

UT of J&K and others

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG
Mr. Ravinder Gupta, AAG.

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

**ORDER
07.04.2025**

ORAL

1. The petitioners, through the medium of present petition, have challenged notification No. SDM/TD/578-582/15 dated 18.06.2015 under Section 4(1) of J&K Land Acquisition Act (hereinafter to be referred as the 'State Act') issued by respondent No. 4 in respect of land measuring 6 Kanal 6 Marlas comprised in Khasra No. 1216-44 and 1028/44 situated at Village Thuroo, Tehsil Thuroo, District Reasi. Challenge has also been thrown to notification No. 82-Rev(LAJ) of 2017 dated 23.02.2017 issued by respondent No. 1 under Section 6 of the State Land Acquisition Act in respect of the aforesaid land. Further the petitioners have sought a direction upon the respondents to initiate fresh acquisition proceedings in respect of the land in question in terms of Right to Fair Compensation and Transparency in Land

Acquisition Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred as Act of 2013) and to pay compensation to them.

2. According to the petitioners they are owners of the aforesaid land and in the year 2008 a Degree College was sanctioned at Dharmari which is about 50 Km away from Reasi. 167 Kanals of land was acquired by the Government for construction of the College and the process of construction was started in the year 2015. It has been submitted that there was no connecting road to the construction site, as a result of which, land of the petitioners was proposed to be acquired by the respondents. Impugned notification dated 18.06.2015 under Section 4(1) of the State Land Acquisition Act came to be issued by the Collector, whereafter impugned declaration under Section 6 of the State Act came to be issued by the Government. It has been submitted that pursuant to issuance of notice of declaration under Section 6 of the State Land Acquisition Act, no action was taken by the respondents to conclude the acquisition proceedings and the final award was not passed by the Collector within the stipulated period of two years of issuance of declaration under Section 6 of the State Land Acquisition Act. On these grounds, it is being contended that the land acquisition proceedings have lapsed and the respondents have to initiate fresh acquisition proceedings in terms of Act of 2013.
3. Respondent No. 4-Collector has filed his reply to the writ petition, wherein he has admitted that the land of the petitioners has been utilized for construction of road. However, it has been submitted that after issuance of declaration under Section 6 and 7 of the State Land

Acquisition Act, notice under Section 9 and 9-A of the State Land Acquisition Act came to be issued vide No. SDM/208-14/17 dated 12.05.2017, whereby land owners and interested persons as well as indenting department were invited for filing objections with regard to measurement of land, title of the property and quantum of compensation proposed. It has been further submitted that vide No. SDM/312/17 dated 08.08.2017 draft award was issued by the Collector. Respondent No. 4 has admitted that the final award could not be issued due to non-availability of the requisite funds. Thus, disbursement of compensation in favour of the land owners could not take place. Respondent No. 4 has further contended that in view of ratio laid down by Supreme Court in case titled as **Bharat Petroleum Corporation Ltd (BPCL) and others vs. Nisar Ahmed Ganai and others** (Civil Appeal Nos. 6781-6783 of 2022), acquisition proceedings would not lapse and that the respondents can take forward the acquisition proceedings in respect of the land in question under the State Land Acquisition Act.

4. I have heard learned counsel for the parties and perused record of the case.
5. So far as the factual aspects of the matter are concerned, the same are not in dispute. Notification under Section 4 (1) of the State Land Acquisition Act in respect of the land belonging to the petitioner came to be issued on 18.06.2015 and the declaration under Section 6 and 7 of the State Land Acquisition Act came to be issued by respondent No.

1 in terms of notification dated 23.02.2017. It is an admitted fact that the final award has not been issued by the Collector as yet.

6. Section 11-B of the State Land Acquisition Act makes it incumbent upon the Collector to make an award within a period of two years from the date of publication of declaration. It further provides that if no award is made within the aforesaid period, the entire proceedings for the acquisition of land shall lapse. The explanation to the said provision provides that in computing the period of two years, the period during which any action or proceedings have remained stayed by an order of court, is to be excluded.
7. In the present case, declaration under Section 6 and 7 of the State Land Acquisition Act has been issued by respondent No. 1 on 23.02.2017. Admittedly till date final award has not been passed by the Collector. It is not case of the respondents that the acquisition proceedings had remained stayed by any order of court. Therefore, once two years from the date of issuance of notification of declaration under Section 6 and 7 of the State Land Acquisition Act have elapsed, the entire acquisition proceedings would stand lapsed.
8. The contention of respondent No. 4 that in view of the ratio laid down by the Supreme Court in case titled as **Bharat Petroleum Corporation Ltd (BPCL) and others vs. Nisar Ahmed Ganai and others**, acquisition proceedings under the State Land Acquisition Act can be taken forward, is without any merit. The factual situation in the aforesaid case was different, inasmuch as in the said case declaration under section 6 and 7 of the State Land Acquisition Act had not been

issued and as such, provision contained in Section 11-B of the State Land Acquisition Act was not attracted to the said case. Situation in the present case is different, inasmuch as declaration under Section 6 and 7 of the State Land Acquisition Act stands already issued by respondent No. 1 in the year 2017 but the award has not been passed even till date. That ratio laid down by the Supreme Court in the aforesaid case would, therefore, not be applicable to the present case.

9. For the foregoing reasons, the instant petition is allowed and the impugned notifications dated 18.06.2015 and 23.02.2017 as also proceedings relating to the acquisition of the land in question are quashed. The respondents are directed to initiate fresh acquisition proceedings of the land in question under the provisions of the Act of 2013 forthwith and complete the acquisition proceedings within a period of six months from the date a certified copy of this order is made available to the respondents.

10. Disposed of along with the connected application.

**(SANJAY DHAR)
JUDGE**

Jammu
07.04.2025
Sahil Padha

Whether the order is speaking:	Yes/No.
Whether the order is reportable:	Yes/No.