



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

**CJ Court**

**LPA No. 311/2025 in  
OWP No. 779/2007  
CM Nos. 8488-8489/2025  
CAV No. 2456/2025**

**Reserved on: 24.02.2026**

**Pronounced on: 08.04.2026**

**Uploaded on: 08.04.2026**

Whether the operative part or full judgment  
is pronounced: **Full judgment.**

1. **Union Territory of J&K**  
Th. commissioner Secretary Revenue  
Department, J&K, Civil Secretariat,  
Jammu.
2. **Commissioner-cum-Secretary**  
Technical Education Department, Jammu  
and Kashmir Govt. Civil Secretariat,  
Srinagar
3. **Director Technical Education,  
Srinagar.**
4. **Collector Land Acquisition**  
(Assistant Commissioner Revenue)  
Shopian, Srinagar. ....Appellant(s)/Petitioner(s)

Through: Ms. Monika Kohli, Sr. AAG.

**Vs**

1. **Piaray Lal Tickoo**  
S/O Lt. Shamboo Nath Tickoo C/O H.  
No. 128 Upper Laxmi Nagar, Sarwal,  
Jammu.
2. **Sham Sunder Tickoo**  
S/O Lt. Shamboo Nath Tickoo C/O H.  
No. 314 Sector No. 3 Shivalikpuram,  
Janipur Colony, Jammu.
3. **Smt. Tita Tickoo**  
W/O Dr. Roop Krishan Tickoo R/O  
Tirath Nagar, Talab Tillo, Bohri



4. **Smt. Raj Dulari Tickoo**  
W/O Ravinder Punjabi R/O Adarsh  
Nagar, Sector No. 05, Burnai Road  
Bantalab, Jammu.
5. **Kaniya Lal Raina**  
S/O Lt. Sh. Anand Ram Raina R/O  
Batapora, Shopian, District Pulwama,  
A/P H. No. 254 C Lane No. 4 Durga  
Nagar, Sector No. 01 Roop Nagar,  
Jammu
6. **Avtar Krishan Koul**  
S/O Lt. Jia Lal Koul R/O Batapora, A/P  
H. No. 29 Block D Sector 01 Durga  
Nagar, Jammu.
7. **Prdhuman Krishan Koul**  
S/O Radha Krishan Koul R/O Batapora,  
Shopian, A/P H. No. 16 Lane No. 6  
Bhuta Nagar, Jammu

..... Respondent(s)

Through: Mr. Abhinav Sharma, Sr. Advocate with  
Mr. Abhirash Sharma, Advocate for  
Respondents/Caveator Nos. 1 and 7

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

**JUDGMENT**

**(Oswal-J)**

1. The land of the respondents measuring 9 Kanals 4 Marlas comprising Survey Nos. 258, 258/1, 258/2, 259 and 593/267 situated at village Batapora, Tehsil and District Shopian was acquired by the appellants in terms of award dated 28.08.2007 under the Land Acquisition Act, 1990 (for short 'the Act').
2. The respondents filed a writ petition bearing OWP No. 779/2007 for quashing the proceedings for compulsory acquisition of their land initiated by the appellant No. 4 under the provisions of the Act and for quashing the communication dated 13.08.2007, whereby the respondents were notified



that the final award would be pronounced on 28.08.2007 and were directed to appear before the appellant No. 4.

3. The respondents, in their writ petition, claimed that the mandate of Section 4 of the Act was not followed by the appellants, as the notification was not published in two daily newspapers having larger circulation in the locality, particularly in Jammu where they were residing after migration and even the said notification was not served upon them. It was also stated that when they came to know about the notification unofficially through certain residents of Batapora, they filed objections with the appellant No. 4 to the proposed acquisition of their land, wherein it was asserted that there was no justification to acquire the particular piece of land belonging to the respondents being members of the minority community, having migrated from the valley and sufficient other land was also available in the locality for acquisition for the purpose of construction of ITI Complex. It was also contended that the appellant No. 4 was under obligation to not only consider the objections filed by the respondents, but also to hear them in person and after considering the objections filed by them only, appellant No. 4 could have formed an opinion and recommended the case to the Government for consideration. Appellant No. 4, without considering the objections and without making any enquiry as contemplated under Section 5-A of the Act and without hearing the respondents in person, recommended the case to the appellant No. 1 for declaration under Section 6 of the Act. The appellant No. 1 issued the declaration under Section 6 of the Act that the land was required for public purpose, however, the said



declaration was neither published in the official gazette nor brought to the notice of the respondents, who had migrated to Jammu. The respondents also complained the non-compliance of Section 9 of the Act that despite the fact, that they had provided their latest addresses to the appellant No. 4 while submitting objections to the notice under Section 4 of the Act, neither the statutory requirement contemplated under Section 9 was followed nor any notice was served upon them.

4. Finally, appellant No. 4 issued the communication dated 13.08.2007, intimating the respondents that the award would be announced on 27.08.2007 and they were directed to attend the office. It is only after receipt of the said notice that the respondents filed the writ petition as mentioned above.
5. The appellants objected to the writ petition by asserting that the appellant No. 3 had placed an indent dated 16.06.2004 with the appellant No. 4 for acquisition of land for construction of ITI Complex, Shopian. Notification dated 01.07.2007 was issued by the appellant No. 4 under Section 4(1) of the Act. The appellant admitted the status of the respondents as migrants. It was stated that the respondents had the information and knowledge of the notification dated 01.07.2004 and even the objections were also received in the office of the appellant No. 4 on 10.08.2004. Girdawar and Patwari were directed to give publicity to the notification under Section 4(1) of the Act by beat of drum and by pasting the copies of the notification at four convenient places. Further, notification was published in the Daily Subah-E-Kashmir dated 09.07.2004 and Srinagar News dated



24.04.2004. Copy of the notification was also endorsed to the Relief Commissioner, Migrant, Jammu for keeping the copies in the migrant cell for information of the concerned. The appellants denied that any land other than the land of the respondents was available in the locality for acquisition. It is stated that objections of the respondents were received, notwithstanding the fact that they were filed beyond the stipulated period of fifteen days and the same were sent to Tehsildar vide communication dated 19.08.2004 for spot verification, consultation of revenue record and furnishing of parawise reply. Report dated 24.08.2004 was received from the Tehsildar, Shopian and as the objections were received after the stipulated time, there was no legal requirement to comply with the provisions of Section 5(A) of the Act. Vide communication dated 31.08.2004, the case was referred to the Government through Financial Commissioner, Revenue for issuance of declaration under Section 6 of the Act and permission to proceed under Section 7 and 17 of the Act. Objections of the respondents, though belated, were submitted to the Financial Commissioner, Revenue and after considering the report of the Collector, notification under Sections 6, 7 and 17 of the Act was issued by the Government vide communication dated 14.01.2005. Thereafter, notification under Section 9, 9(a) of the Act was issued on 09.03.2005 and the same was published in the Daily Roshni dated 13.03.2005 and Daily Aftab dated 14.03.2005. Copy of the notification was also endorsed to the Relief Commissioner Migrants, Jammu for keeping in the migrant cell for information of the concerned and Girdawar and Patwari were directed to



paste the copies of the notification at the land also. Respondents had not provided their addresses in their objections received on 10.08.2004, as such, their addresses were not known and the notification under Section 9 and 9(a) could not be sent to them. It is contended that the notice was served upon the respondents regarding announcement of final award. Respondents have submitted that as the provisions of Section 17 of the Act were invoked, on 03.07.2005 Tehsildar was directed to handover the possession of the land to the indenting department and the indenting department has also constructed the complex on the land. It is stated that the land of the respondents was acquired after following the mandate of the Act.

6. The learned Writ Court, vide its judgment dated 14.08.2025, allowed the writ petition and quashed the award dated 28.08.2007 issued by the appellant No. 4 and directed the appellants to initiate fresh acquisition proceedings in respect of the land in question in accordance with the provisions contained in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the compensation to the respondents.
7. Being aggrieved of the judgment dated 14.08.2025, the appellants have preferred this *intra court* appeal, thereby assailing the same, on the grounds that the learned Single Judge has ignored the admitted position that the respondents had actual knowledge of acquisition proceedings, as they had even filed the objections before the Collector. As the respondents had participated in the acquisition proceedings, they cannot be permitted



to turn around to say that the acquisition proceedings are bad in law. It is also urged that the learned Writ Court has failed to appreciate that the objections were filed by the respondents beyond the stipulated period of fifteen days as prescribed under Section 5-A of the Act. Belated objections do not confer any enforceable right, yet as a matter of fairness, the Collector referred the objections to Tehsildar for verification and report. Though the objections were filed belatedly, they were forwarded along with the Tehsildar's report to report to the Government.

8. Challenge is also laid to the impugned judgment on the ground that, following the invocation of urgency provisions in Section 17 and the subsequent completion of the ITI Complex, the learned Writ Court lacked the latitude to quash the acquisition proceedings. It is also the contention of the appellants that the Writ Court has wrongly applied Section 11-B of the Act to hold that the award was passed beyond limitation, because the period consumed in administrative process and pendency of proceedings deserved to be excluded. It is also contended that the learned Writ Court has erred in directing the appellants to initiate fresh proceedings in respect of the land in question in accordance with the provisions contained in Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
9. Ms. Monika Kohli, learned Senior AAG appearing for the appellants, besides reiterating the submissions made in the memo of appeal, as recorded above, has in the alternative submitted that no direction could have been issued for initiating fresh acquisition proceedings under the



Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in view of judgment of the Coordinate Bench of this Court in case titled '**Gulzar Ahmad Akhoon & Ors. Vs. UT of J&K & Ors.**', 2023(1) JKJ(HC) 68.

10. *Per contra*, Mr. Abhinav Sharma, learned Senior Counsel appearing for the respondents has argued the learned Writ Court has properly addressed all points of contention and rightly determined that the appellants have failed to follow due process in acquiring the respondents' land.
11. Heard learned counsel for the parties and perused the record.
12. As noted in paragraph 11 of the impugned judgment, it is established that the acquisition records are no longer available with the Collector, as the office records were destroyed by fire on 04.09.2016.
13. As per mandate of Section 4(1) of the Act, whenever land in any locality is needed or is likely to be needed for any public purpose the Collector shall notify it-
  - a. *Through a public notice to be affixed at convenient places in the said locality and shall also cause it to be known by beat of drum and through the local Panchayats and Patwaris;*
  - b. *In the Government Gazette, and*
  - c. *In two daily newspapers having largest circulation in the said locality of which at least one shall be in the regional language.*
14. It is mandate of Section 4(1)(c) of the Act that notification under Section 4 of the Act has to be published in two daily newspapers having wide circulation in the locality and one of these newspapers has to be in regional language. So far as the case at hand is concerned, the notifications were published in two daily newspapers, namely, Subah-E-



Kashmir dated 09.07.2004 and Srinagar News dated 24.04.2004. These two daily newspapers have, in fact, no circulation in Jammu, where the respondents were residing as migrants. We find ourselves in complete agreement with the Writ Court's findings that none of the newspapers in question possess significant circulation even within Kashmir, let alone in Jammu, where the respondents resided as migrants. Further, nothing was brought on record to demonstrate that the said notification was published in the Government Gazette. Thus, it can be safely held that the appellant No. 4 failed to follow the mandate of Section 4(1) of the Act. In **“J&K Housing Board & Anr. Vs Kunwar Sanjay Krishan Kaul & ors.” (2011) 10 SCC 714**, the Hon’ble Supreme Court has held that the manner of publication of notification under Section 4 of the State Act is mandatory. It has been further observed that the object of publication in terms of Sub-Section 4(1)(c) of the Act is to intimate the people, who are likely to be affected by the notification.

15. The contention of the appellants is that once the respondents submitted their objections to the notification under Section 4 of the Act, they cannot deny the knowledge of the same. Needless to say that objected purpose of publication of notification in terms of Section 4(1) of the Act is to intimate the people who would likely to be affected by the notification and it is contended by the appellants that the respondents submitted objections to the proposed acquisition. In terms of Section 5-A of the Act, any person interested in any land which has been notified under Section 4(1) of the Act, as being needed or likely to be needed for a public purpose may,



within fifteen days after such land is notified in the manner prescribed in clause (a) of Sub-Section 1 of Section 4, object to the acquisition of the land or of any land in the locality and the Collector is under obligation to give the objector an opportunity of hearing either in person or by pleader or by a person authorised by him and after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, submit the case for the decision of the Government together with the record of the proceedings held by him and a report containing his recommendations on the objections.

16. Admittedly, in the present case no such opportunity of hearing has been afforded to the respondents. Hon'ble Supreme Court of India, in case titled as "**Union of India vs. Shivraj**" reported in **(2014) 6 SCC 564** has held that right given under Section 5-A to land owners/interested persons to be heard on their objections is not a mere formality and the Collector is under obligation to objectively consider the arguments advanced by the objector and make recommendations duly supported by brief reasons as to why a particular piece of land should or should not be acquired and whether the plea put forward by the objector merits acceptance.
17. In the present case, the Collector admittedly failed to follow the mandate of Section 5-A of the Act. As stated in paragraph 7 of the response to the writ petition, the appellants took the explicit stand that compliance with Section 5-A of the Act was unnecessary because the objections were received after the stipulated time and still the objections along with report of Tehsildar were forwarded to the Government. Appellant No.4 has



neither heard the respondents nor considered their objections, as such, Appellant No. 4 cannot now maintain that the respondents' objections were duly considered.

18. Further, we find grave violation of Section 11-B of the Act that provides that the Collector has to make the award within a period of two years from the date of publication of declaration, and if, no award is made within the said period, the entire proceedings for acquisition of land would lapse. In the case at hand, declaration under Section 6 of the Act was issued on 14.01.2005 and the award was passed on 28.08.2007, i.e. after more than two years of issuance of declaration. The appellants have attempted to justify the award that they had resorted to urgency provisions contained in Section 17 of the Act, but nothing was brought to the notice of the Writ Court as well as this Court with regard to compliance of provisions contained in Section 17-A of the Act, which mandates the payment of 80% of the compensation to the land owners before taking possession of the land. Thus, once the mandate of Section 17-A of the Act has not been followed, this acquisition proceedings would lapse on account of operation of Section 11-B of the Act.
19. Upon review of the learned Writ Court's judgment, we find no compelling reason for this Court to show any indulgence or disturb the conclusions qua the validity of acquisition proceedings. Equally significant, however, is the fact that the ITI Complex has already been constructed on the land acquired under the award dated 28.08.2007. Furthermore, the original



records of the acquisition proceedings are no longer available, having been destroyed by fire.

20. In case titled “**Delhi Airtech Services Pvt. Ltd. & Anr.Vs. State of U.P. &Anr, JKJ ONLINE 79238**”, when the Hon’ble Supreme Court found the non-compliance of section 17 (3)(A) of the Land Acquisition Act, it held as under:

(i) The provision contained in Section 11A of Act, 1894 shall be applicable to cases in which the acquiring authority has not complied with the requirement of sub-section (3A) to Section 17 of Act, 1894 by tendering and paying eighty per centum of the estimated compensation before taking possession since possession in such cases cannot be considered to be taken in accordance with law and the vesting is not absolute.

(ii) If the requirement is complied and possession is taken after tendering and paying eighty per centum, though there is need to pass an award and pay the balance compensation within a reasonable time, the rigour of Section 11A of Act, 1894 will not apply so as to render the entire proceedings for acquisition to lapse in the context of absolute vesting. The right of land loser in such case is to enforce passing of the award and recover the compensation.

(iii) In the instant case though Section 11A of Act, 1894 has become applicable, in the changed circumstance we deem it proper to mould the relief instead of holding the acquisition to have lapsed. Hence for the reasons stated above, we direct as follows:

(a) The respondents shall construe 09.06.2008 as the relevant date and determine the market value prevailing as on that date applying the yardstick under Act, 1894 in respect of the acquired land.

(b) To calculate the statutory benefits on such amount including interest, the same shall be determined by taking into consideration the date of the Section 4 notification dated 17.04.2002 since the appellant was dispossessed on 04.02.2003 pursuant to the same.

(c) The date on which the fresh award is passed pursuant to this judgment and communicated shall be the date of cause of action for seeking enhancement of compensation if the appellant is dissatisfied with the quantum of compensation offered.

(d) The compensation determined in this case shall not give the cause of action to any other land loser whose land is acquired under the same notification to seek re-determination of compensation.

(e) The appellant shall be entitled to the cost incurred in these proceedings.



21. The judgment of Hon'ble Supreme Court in **Delhi Airtech Services Pvt. Ltd. & Anr.Vs. State of U.P. & Anr, JKJ ONLINE 79238 /2022 (14) SCALE 936**, has been followed by the Co-ordinate Bench of this court in '**Gulzar Ahmad Akhoon & Ors. Vs. UT of J&K & Ors.**', 2023 (1) JKJ (HC) 68.
22. In view of the aforesaid judgments, the judgment of the learned writ court is modified to the extent that instead of initiating the proceedings for fresh acquisition in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the compensation to the respondents, the appellant No.4 shall pass fresh award and for that purpose shall construe 28.08.2007 (date of final award) as the relevant date for determination of market value but shall apply the yardsticks for assessment of compensation provided under the 1990 Act in respect of acquired land of the petitioners. Appellant No. 4 shall calculate other statutory benefits on such amounts including interest to be calculated and determined by taking into consideration the date of taking over possession i.e. 03.07.2005. The date on which fresh award is passed in favour of the respondents pursuant to this judgment and intimated to them shall be the date of cause of action for seeking enhancement of compensation under the 1990 Act, if the appellants are dissatisfied with the quantum of compensation offered. While making payment of compensation assessed in terms of this judgment, the amount of compensation, if any, received by the respondents shall be taken into account. The entire exercise be



completed within three months from today failing which the respondents shall be entitled to Rs. 50,000/- as costs.

23. Disposed of.

**(RAJNESH OSWAL)  
JUDGE**

**(ARUN PALLI)  
CHIEF JUSTICE**

**Jammu**  
08.04.2026  
*Sahil Padha*

Whether the order is speaking:  
Whether the order is reportable:

Yes/No.  
Yes/No.

