

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

WP(C) 176/2026 c/w CCP(S) 60/2026

SYED ABBAS RIZVI AND
OTHERS

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

Through: Mr. Mujeeb Andrabi, Advocate vice
Mr. G.A. Lone, Advocate

Vs.

UNION TERRITORY OF J AND K
AND OTHERS

...Respondent(s).

Through: Mr. Ilyas Nazir Laway, GA
Mr. Rajnish Raina, Sr. Advocate with
Mr. Abid Khan, Advocate

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

21.09.2026

CM No. 4307/2026

1. The instant application has been filed by the applicant/respondent No. 7, University of Jammu, seeking vacation/modification of the interim order dated 13.02.2026 passed in the main petition.
2. It is stated in the application that the land in question, measuring 50 kanals, falling under Survey No. 217-min, situated at Estate Sharief-Abad, Tehsil and District Budgam, is recorded as State land in the revenue records. The ownership column of the Jamabandi records the land in the name of "Sarkar", while the possession column records the same as "Makboza Sarkar". It is, accordingly, submitted that the petitioners have no recorded ownership rights over the said land.
3. It is further stated that, after due verification, demarcation and scrutiny by the competent Revenue Authorities, the aforesaid parcel of land was identified for establishment of a Jammu University Research

Centre/Campus. The proposal, along with the relevant revenue records, was thereafter forwarded to the University of Jammu for examination of feasibility. Upon examination of the records and site suitability, the University found the land feasible and suitable for establishment of the proposed Research Centre/Campus.

4. It is the further case of respondent No. 7 that the competent authority, namely, the Divisional Commissioner, Kashmir, vide Order No. 108-DIVK-LAS of 2025 dated 05.12.2025, accorded sanction for transfer of the State land for the aforesaid public purpose. Pursuant thereto, possession of the land was stated to have been formally handed over to the University of Jammu by the competent Revenue Authorities. It is, therefore, contended that respondent No. 7 is entitled to utilize the land for the purpose for which it has been transferred.
5. It is also contended that the petitioners have failed to establish any prima facie right, title or legally enforceable interest over the land in question and that mere planting of trees over State land would not confer ownership rights upon them. It is submitted that continuation of the interim order is causing substantial delay in commencement of the developmental activities and is prejudicial to public interest, besides adversely affecting the public funds, administrative resources and institutional planning undertaken for establishment of the proposed campus.
6. It is further stated that the interim order appears to have been obtained without placing the complete factual and legal position before the Court, particularly with regard to the status of the land as State land, the sanction accorded by the competent authority and the handing over of possession to

respondent No. 7. On these grounds, vacation/modification of the interim order dated 13.02.2026 has been sought to the extent of permitting respondent No. 7 to proceed with the development and construction activities over the land in question.

7. This Court, vide order dated 13.02.2026, had, subject to any vacation or modification upon consideration of the objections/arguments of the other side and until further orders, directed that the respondents shall not interfere with the subject matter of the dispute, i.e., land measuring 50 kanals bearing Survey No. 217-min situated at Sharief-Abad, District Budgam, except strictly in accordance with the procedure established by law.
8. Thereafter, this Court, vide detailed order dated 20.08.2026, took note of the submission repeatedly advanced by Mr. Rajnish Raina, learned Senior Advocate, appearing for respondent No. 7, that the interim direction was being interpreted and/or exploited in a manner which was obstructing the University of Jammu from carrying out development activities over the land stated to have been allotted to and placed in its possession.
9. From a bare perusal of the record of the main writ petition, it is apparent that the petitioners are seeking a declaration of their ownership rights under Raj Tilak Boon or, in the alternative, a direction to the respondents to confer ownership rights upon them in respect of land measuring 193 kanals and 09 marlas falling under Survey No. 217-min, in terms of Government Order No. LB-6/C of 1958 dated 05.06.1958 and Government Order No. S-432 of 1996 dated 03.06.1996.

10.Mr. Rajnish Raina, learned Senior Advocate, assisted by Mr. Abid Khan, learned Advocate, appearing for respondent No. 7, submits that the interim direction passed by this Court has been wrongly understood by the police authorities and is being interpreted to prevent the officials of the University from carrying out development activities over the land allotted to and held by the University. Learned Senior Counsel submits that such interference is causing serious prejudice to the development activities of the University and is also against public interest. It is further submitted that, on account of the aforesaid hindrance, public funds, administrative resources and institutional planning undertaken for establishment of the proposed campus are being adversely affected.

11.Mr. Ilyas Nazir Laway, learned Government Advocate appearing for respondents 1 to 5, while referring to the reply filed on their behalf, submits that the land in question is State land and is in the possession of the Government. He submits that, as per the official revenue records maintained by the Revenue Department, Survey No. 217 comprises a total area of 192 kanals and 09 marlas. It is further submitted that, in the ownership column of the Jamabandi for the year 2020-21, the land stands recorded in the name of “Sarkar”, thereby reflecting the ownership of the Government, while the possession column records the entry as “Makboza Sarkar”, indicating that the possession and control of the land vests with the Government. Learned Government Advocate further submits that the said revenue entries continue to remain valid and operative.

12.Learned counsel appearing for the petitioner has sought an adjournment on account of non-availability of the learned arguing counsel. However, the record reflects that the matter has already been taken up on earlier

occasions and, according to learned counsel for respondent No. 7, the proceedings are being unnecessarily prolonged, causing prejudice to the University of Jammu. Learned counsel appearing for the respondents has also been heard.

13. Having considered the submissions advanced and the material available on record, it is apparent that, as on date, the petitioners have not been declared owners of the land in question. The main petition itself seeks, inter alia, a declaration of ownership in their favour in terms of Government Order No. LB-6/C of 1958 dated 05.06.1958 and Government Order No. S-432 of 1996 dated 03.06.1996. Thus, the claim of ownership asserted by the petitioners is itself a matter which remains to be adjudicated in the main petition.

14. In the aforesaid circumstances, and without expressing any opinion on the merits of the rival claims, this Court finds that the petitioners, as on date, have not established any declared ownership right over the land in question which would, by itself, warrant restraining respondent No. 7 (University of Jammu) from carrying out the activities for which the land is stated to have been transferred to it by the competent authority. The rights and claims of the parties in respect of the land shall, however, remain subject to adjudication in the main petition.

15. Hon'ble Supreme Court in **Ramniklal N. Bhutta & Another v. State of Maharashtra & Others** Citation: (1997) 1 SCC 134 has held as under:

"Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the

world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as “Asian tigers”, e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay.

It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and, in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction.

The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary.

The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 — indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement, that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable.

There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable

to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

16. In view of the aforesaid legal position, it is evident that while exercising its discretionary jurisdiction under Article 226 of the Constitution, this Court is required to strike a judicious balance between the private interest of the petitioner and the larger public interest sought to be served. The power of judicial review, though wide, is discretionary and is to be exercised in furtherance of the interests of justice, keeping in view the nature and purpose of the developmental project and the consequences that may ensue from the grant of an interim order.

17. The exercise of discretionary jurisdiction under Article 226 of the Constitution at the interlocutory stage necessarily requires the Court to balance the private interest of the claimant against the larger public interest involved in the implementation of a lawful public project. The Court must weigh public interest vis-à-vis private interest. It is important to bear the wider public interest in mind while considering the grant of stay or injunction in such matters and in balancing the competing interests of the parties.

18. Therefore, this Court in the peculiar facts and circumstances of the case and without expressing any opinion on the merits of the main petition, deems it proper that the interests of justice would be met by modifying/clarifying the interim order dated 13.02.2026 to the limited extent indicated herein. The continuation of the interim direction, insofar as it is being understood as restraining respondent No. 7 from carrying out development and construction activities over the land stated to have been

transferred to it, is causing delay in commencement of the proposed developmental activities.

19. Accordingly, keeping in view the wider public interest and by balancing the competing interest of the parties, the interim order dated 13.02.2026 is **modified/clarified to the limited extent that respondent No. 7- University of Jammu shall be at liberty to proceed with the development and construction activities over the land in question, without any hindrance strictly in accordance with law and subject to all requisite statutory permissions, sanctions and approvals from the competent authorities and the petitioners are restrained temporarily from causing any interference in the development and construction activities once the land in question which has been duly transferred in favour of the University of Jammu by the competent authority, keeping in view the nature of the relief sought by the petitioners, whereby the petitioners are seeking declaration of ownership rights.**

20. It is, however, made clear that the development and construction activities undertaken by respondent No. 7 shall remain subject to the final outcome of the main writ petition and any further order that may be passed by this Court therein.

21. It is further clarified that nothing contained in this order shall be construed as a final expression of opinion on the rights, title or interest of any of the parties in respect of the land in question. The observations made herein are confined strictly to the consideration and disposal of the instant application seeking vacation/modification/clarification of the interim order.

22.The application stands **disposed of accordingly**.

WP(C) 176/2026

1.List this petition for consideration on 23rd October, 2026.

CCP(S) 60/2026

1. This contempt petition has been filed seeking implementation of order dated 13.02.2026, which has been modified hereinabove. In view of the modification of the said order, the contempt petition has been rendered infructuous. Accordingly, the proceedings in the contempt petition are closed. Rule, if any, shall stand discharged. The contempt petition is disposed of.

2. Disposed of accordingly.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR
21.09.2026
“*Mubashir*”