

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

CJ Court

Case: WP (C) No. 1905 of 2020

Ashok Kumar and others

.....Appellant/Petitioner(s)

Through :- Sh. Mohd. Aleem Wani, Advocate.

v/s

Union Territory of J and K and others

.....Respondent(s)

Through :- Sh. Ashish Singh Kotwal, Advocate for
R-6 and 7.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

25.04.2022

01. Heard learned counsel for the petitioners and learned counsel for respondent Nos. 6 and 7.
02. In response to the writ petition, two sets of objections have been filed one by respondent No. 1 to 5 and the other filed by respondent No. 6 and 7.
03. The petitioners by means of this writ petition wants a direction upon the respondents to widen the already existing National Highway instead of constructing a new road and that too in violation of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013.
04. The petitioners are not challenging any notification under which the aforesaid land has been acquired.
05. The objections on record, filed on behalf of the respondents, categorically state that since the land was needed for the public purpose of construction of the national highway, it was acquired in accordance with the provisions of the National Highway Act, 1956. One of the petitioners i.e., petitioner No. 1 has even accepted the compensation as per the award declared.

06. The petitioners have not filed any rejoinder affidavit to rebut the contentions made in the objections of the respondents, meaning thereby that the issuance of the notifications to acquire the land under the National Highway Act, 1956 is not disputed.

07. Moreover, in the absence of any challenge of the acquisition proceedings whether either under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement, Act 2013 or the National Highway Act, we are of the view that the petitioners are not entitled to any relief.

08. The submission of the counsel for the petitioners' that in the garb of the aforesaid acquisition, respondents are encroaching upon their land which has not been acquired. This submission cannot be accepted as this Court in exercise of discretionary jurisdiction is not competent enough to decide the matter regarding encroachment of any land. The petitioners may take recourse to the appropriate legal remedy in this regard as may be advised to them in law.

09. The submission that there is no need for constructing a new national highway as there already exists a highway which can be repaired and widened, it may be pertinent to mention that the construction of a national highway is a policy decision, which is taken on the opinion of the experts. It is not for this Court to intervene in such matters on the simple saying of the petitioners that such road or a highway is not needed.

10. In view of the aforesaid facts and circumstances, we find no merit in the petition and the same is **dismissed** with the observation as made above.

(MOKSHA KHAJURIA KAZMI)
JUDGE

(PANKAJ MITHAL)
CHIEF JUSTICE