



2026:JKLHC-SGR:60-I

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 79/2025 in
WP(C) No. 504/2025

Reserved on : 17.09.2025
Pronounced on : 09.04.2026
Uploaded on : 10.04.2026
Whether the operative part or full
judgment is pronounced

Abdul Aziz Bhat and others

.... Petitioner/Petitioners(s)

Through:-

Mr. Imam Abdul Muizz,
Advocate
Mr. Naseer-ul-Akba, Advocate

V/s

UT of J&K and others

.....Respondent(s)

Through:-

Ms. Nowbahar Khan, Asst. Counsel
Ms. Mariya Ashraf, Advocate
vice
Mr. Altaf Mehraj, Advocate

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

JUDGMENT

1. The appellants have preferred the present Letters Patent Appeal being aggrieved of the order dated 11.03.2025 passed by the learned Single Judge in WP(C) No. 504/2025 titled "*Abdul Ahad Bhat v. Union Territory of J&K and others*", whereby the writ petition filed by the private respondent was disposed of with a direction to the official respondents, particularly respondent No. 3–Collector Land Acquisition, Baramulla (Additional Deputy Commissioner), to ensure payment of compensation as per the award to the petitioner



therein within a period of eight weeks, failing which, the same was to be payable at the rate of 6% per annum.

2. The case of the writ petitioner (private respondent herein) before the learned Single Judge was that his land and structures under Survey No. 4320/2012, situated at Tapper Waripora, Pattan, forming part of his immovable property, had been acquired for the purpose of widening of the Srinagar-Baramulla National Highway (NH-44). It was pleaded that though an award had been passed in the matter, the compensation amount assessed in his favour had not been disbursed despite repeated representations. On the basis of the material produced, particularly the apportionment statement showing the petitioner's land and structures, the learned Single Judge considered the matter to be capable of disposal at the threshold stage and directed release of compensation in favour of the private respondent.

3. The appellants, who were not arrayed as parties in the writ petition, have assailed the aforesaid order mainly on the ground that the land under Survey No. 2012 does not exclusively belong to the private respondent, but is joint and unpartitioned property inherited by the parties from their common ancestors namely Ahmad @ Amma, Mohideen @ Mahada, and Sannaullah @ Sona, sons of Late Aziz Bhat, who had received the said land measuring two kanals by way of exchange with the State under File No. 182/CHP dated



14.07.1970. It is stated that upon the demise of the said ancestors, the property devolved upon their respective legal heirs, including the appellants and the private respondent, in equal proportion, and that the property continues to remain unpartitioned.

4. It is the further case of the appellants that a portion of the said land came under acquisition due to highway widening, and the private respondent, in alleged connivance with the revenue field staff, managed to obtain a title certificate in his favour on the basis of a purported private family partition which, according to the appellants, never took place. They assert that a civil suit for partition, possession, declaration, and permanent injunction titled "*Abdul Aziz Bhat & others v. Abdul Ahad Bhat and others*" is pending before the Court of the learned Sub-Judge, Pattan, and that an application under Section 3H(4) of the National Highways Act, 1956, seeking reference to the learned Principal District Judge, Baramulla, for deciding apportionment of compensation with respect to property in question falling under Survey No. 2012, is also pending adjudication.

5. The grievance of the appellants, therefore, is that the impugned order dated 11.07.2025 has been passed without giving them an opportunity of being heard, even though they are co-owners of the property. According to them, the direction for payment of the entire compensation to the private



respondent has affected their lawful share in the acquired land. They submit that by doing so, the learned Single Judge has virtually allowed the private respondent as the exclusive owner of the property, even though the questions of ownership, partition, and apportionment of compensation are still pending before the competent civil Court and the competent authority.

6. Heard learned counsel for the parties and perused the material on record.

7. Upon perusal of the record, it transpires that the private respondent failed to disclose material facts before the learned Single Judge, namely, the pendency of a civil suit between the parties and the fact that the appellants had already moved an application under Section 3H(4) of the National Highways Act, 1956, before the Collector, Land Acquisition, seeking reference of the matter to the Court of the learned Principal District Judge, Baramulla. While passing the impugned order, the learned Single Judge was not apprised of the aforesaid facts, as the appellants were not impleaded as party respondents in the writ petition.

8. In view of the above, this Court finds substance in the contention that the impugned order could not have been passed directing release of the entire compensation in favour of the private respondent alone, when serious disputes regarding title, co-ownership, and apportionment of



compensation were already raised and were pending adjudication before the competent civil court as well as before the authority under Section 3H(4) of the National Highways Act, 1956. It is a settled position of law that where there is a dispute as to entitlement or apportionment of compensation, the competent authority is under a statutory obligation to refer such dispute to the Principal Civil Court of original jurisdiction and withhold disbursement till the dispute is resolved.

9. Section 3H(4) of the National Highways Act, 1956 provides as under:-

“4.If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.”

10. The Supreme Court in ***Vinod Kumar and others vs. Districtg Magistrate, Mau and others***, 2023 SCC OnLine 787 in para 34 has observed as under:-

“34.Our final conclusion is as under: If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, then, the competent authority shall refer the dispute to the decision of the Principal Civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated. The competent authority possesses certain powers of the Civil Court, but in the event of a dispute of the above nature, the summary power, vesting in the competent authority of rendering an opinion in terms of Sub-section (3) of Section 3H, will not serve the purpose. The dispute being of the nature triable by the Civil Court that the law steps in to provide for that to be referred to the decision of the Principal Civil Court of original



jurisdiction. The dispute regarding apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, would then have to be decided by that Court.”

11. It is equally well settled that a writ court, while exercising jurisdiction under Article 226 of the Constitution, ought not to issue directions which have the effect of conclusively determining disputed questions of title or exclusive ownership, particularly when such disputes are pending before a competent civil forum. The Hon'ble Supreme Court in case titled to ***State of Rajasthan v. Bhawani Singh***, (1993) Supp (1) SCC 306, has observed that writ jurisdiction should not be invoked to decide complex questions of title.

12. In the present case, the appellants, though not impleaded as parties before the learned Single Judge, have asserted prima facie co-ownership over the acquired land, supported by their plea that the property is joint and unpartitioned and that civil proceedings regarding partition and declaration are pending. In such circumstances, the direction to release compensation solely in favour of the private respondent has the effect of prejudicing the rights of the appellants without affording them an opportunity of being heard, thereby offending the principles of natural justice.

13. Accordingly, the appeal is allowed. The impugned order dated 11.03.2025 is set aside to the extent it directs release of compensation exclusively in favour of the private respondent. The respondent No. 3-Collector Land Acquisition Baramulla, is



directed to keep the compensation amount in deposit and to proceed strictly in accordance with Section 3H(4) of the National Highways Act, 1956. The rights and contentions of all parties with respect to title, partition, and apportionment of compensation are left open to be decided by the competent civil court.

14. The instant appeal is, accordingly, disposed of in the aforesaid terms.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Srinagar:
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