

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

**WP(C) No. 4418/2019
CM No. 9365/2019**

**Munshi Khan, age 65 years,
S/O Farman Ali Khan,
R/O Maniyal Tehsil Thanamandi,
District Rajouri.**

.....Petitioner(s)

Through :- Mr. C M Koul, Sr. Advocate with
Mr. Arshad Hussain, Advocate

v/s

- 1. UT of J & K through
Commissioner-cum-Secretary to
Government, Revenue Department,
Civil Secretariat, Jammu.**
- 2. Sub-Divisional Magistrate,
Collector Land Acquisition,
Thanamandi, Rajouri.**
- 3. Chief Manager, NRSS (XXIX),
Transmission Ltd. House No. 6,
Sector 7, Channi Himmat, Jammu.**

.....Respondent(s)

Through :- Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT(ORAL)

21.02.2024

1. The petitioner through the medium of this petition has sought the following reliefs:

Mandamus commanding the respondents to provide/disburse the compensation to the petitioner with regard to:-

- i) His house situate at Maniyat Tehsil Thanamandi, District Rajouri which has come under the construction/laying of 400 KV D/C Samba-Amargarh Transmission Line.
- ii) The trees those have also come under the sweep of the aforementioned laying of 400 KV D/C Samba-Amargarh Transmission Line and consequently came to be cut and removed from the spot.

- iii) The final negotiation arrived at with regard to the other trees which were also cut and removed from the spot as those trees had also come under the laying of 400 KV D/C Samba-Amargarh Transmission Line and in respect of which the amount of compensation on final negotiation came to be fixed at Rs.2,00,000/-.

2. The petitioner has placed on record a communication of the Collector addressed to the Executive Engineer PWD(R&B), Division Rajouri for the assessment of the house of the petitioner. As per communication dated 23.03.2017, the Indenting Department has informed the Collector-Sub Divisional Magistrate, Thanamandi Rajouri, that the houses of six people including the petitioner Munshi Khan will be compensated for damage for the safe Electric Horizontal Clearance lying under Transmission Line. The petitioner has also placed on record a communication dated 16.03.2018 from respondent No.3 to the petitioner stating that the trees lying under the Transmission Line shall be cut for clearance of the belt for Transmission Line and has also placed on record a Certificate issued in terms of Compensation for Way Leave under Section 10-19 of the Indian Telegraph Act, 1885 by the respondent No.3 in favour of the petitioner, indicating the trees which shall be damaged by laying the Transmission Line.

3. Pursuant to notice, respondent No.2, who is the Collector, has filed a cryptic reply stating that the house of the petitioner has not been assessed by the Technical Department and has not said specifically dealt with regard to the petitioner's claim regarding damage to the trees. It has also been pleaded that respondent No.3, who is the Indenting Department despite service has not responded.

4. It is very strange that the Indenting Department as well as the Collector has not responded to the claim of the petitioner for paying compensation for damage caused to his house as well as to the trees falling in his land under the

Transmission Line. The Collector under the Land Acquisition Laws, is a statutory authority, who has legal competence to proceed in the matter for acquisition of the property, required by any indenting developmental agency and cannot shirk from his statutory obligations, merely saying that the indenting agency had not responded to his/her communication, as the process can be enforced by such an authority in terms of the procedural laws. It is unfortunate that the Collector has not filed detailed reply, to assist this Court, for the disposal of this case on merits.

5. Having proceeded in the matter, learned counsel for the petitioner submits that the petitioner would be satisfied in case a direction is passed to the Collector-Sub Divisional Magistrate, Thanamandi for proceeding in the matter and conclude the acquisition proceedings in accordance with law at the earliest.

6. In view of the facts and circumstances of the case and the submissions made by learned counsel for the petitioner, the petition is **disposed of** at this stage with a direction to the respondent No.2-Sub Divisional Magistrate, Collector Land Acquisition, Thanamandi, Rajouri to proceed in the matter and pass the award, in accordance with law, granting compensation in favour of the petitioner for damage to his house as well as to the trees in his land, as admitted by the Indenting Department. This exercise shall be conducted within six weeks from the date a copy of this order/judgment is served upon respondent No.2.

7. **Disposed of**, accordingly, along with pending applications(s).

(M A Chowdhary)
Judge

JAMMU
21.02.2024
Vijay

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