

Serial No. 47

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

**WP(C) No. 3737/2019
CM No. 7761/2019**

**Inhabitants of Village Ashmar Farmote
Th. Sarpanch Mohd. Amin, Age 42 years,
S/O Mohd. Shafi Bhat.**

**Sarpanch of Panchayat Ashmar-Farmote,
Tehsil Gool, District Ramban.**

.....Petitioner(s)

Through: Mr. Nadeem Bhat, Advocate.

Vs

- 1. State of J&K Th. Commissioner Secretary,
Revenue Department, J&K Govt.,
Civil Secretariat, Jammu/Srinagar;**
- 2. Deputy Commissioner, Ramban;**
- 3. Collector Land Acquisition, Gool;**
- 4. Executive Engineer, Public Works Department,
Division Ramban.**

सत्यमेव जयते

..... Respondent(s)

Through: Ms. Sugandh Gandotra, Advocate vice
Mrs. Monika Kohli, Sr. AAG for R-1 to 3.
Ms. Vanishka Bhargav, Advocate vice
Mr. Ravinder Gupta, AAG for R-4.

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

**ORDER
(22.11.2024)**

1. This petition has been filed by the inhabitants of village Ashmar Farmote through one-Mohd. Amin S/O Mohd. Shafi Bhat, claiming to be a Sarpanch of Panchayat Ashmar Farmote, Tehsil Gool, District Ramban, seeking direction to the

respondents to release compensation in respect of the land of Panchayat Ashmar Farmote, measuring 10 Kanals & 09 Marlas falling under Khasra No. 46 min, 01 Kanal & 07 Marlas falling under Khasra No. 47 min and 01 Kanal & 04 Marlas falling under Khasra No. 4 situated at village Ashmar, Tehsil Gool, District Ramban.

2. The case of the petitioner is that the Panchayat Ashmar is entitled to receive the compensation in view of the law laid down by this Court in case titled, "**Habibullah Sheikh & Ors. Vs. State of J&K & Ors.**", reported as 2008 (3) JKJ (HC) 170", wherein it has been held that the local panchayat is entitled to receive the compensation for the land falling under Maksoosa Kahascharai.

3. The petitioner's further claim is that the Panchayat is awaiting to receive the compensation since the year 1998, when the land in question was acquired for construction of the road by the respondent Nos. 2 and the Collector Land Acquisition, Gool had passed the award of the common land of Village Maksoosa Kahascharai.

4. The claim projected by the petitioner in this petition has been accepted by the respondents in para-6, which reads as under:-

“This Collectorate has never denied that the payment shall not be paid to the panchyat. However the payment shall be made only when the indenting department releases the amount of compensation to Collectorate”

5. On a perusal of the reply filed by the respondent Nos. 2 & 3, i.e., Deputy Commissioner, Ramban & Collector Land Acquisition, Gool, it is evident that vide Notification Nos. SDM/G/PWD/270-80 dated 07.03.2017 and Acq./Gen./575-83 dated 21.06.2012, the land in question was notified for the construction of Sangaldan-Kanthan road through two villages of Movalkote and Ashmar and a tentative award for both these villages was issued vide No. SDM/G/PWD/302-08 dated 24.11.2017 for an amount of ₹ 2,37,61,016/- for the land in village Movalkote and vide No. Acq./Gen./1098 dated 08.01.2013 for an amount of ₹ 58,41,375/- for village Ashmar and an amount of ₹ 1,91,00,000/-, as deposited has been released and disbursed in favour of the land owners and that the indenting department-Executive Engineer, PWD (R&B), Division Ramban-respondent No. 4 herein has been requested by the respondent-Collectorate to release the balance funds on account of compensation against various roads under PWD/NABARD, including Sangaldhan-Kanthan road.

6. It has been stated in the details of compensation of both the villages that common land of the villages Movalkote &

Ashmar acquired for this purpose, are to be paid compensation for an amount of ₹ 34,09,175/.

7. Learned counsel for the respondent-Collector has submitted that the Collector is bound to make payment in terms of the award to the petitioner-Panchayat, however, subject to the availability of funds from the indenting department. The learned counsel for the petitioner submits that the petitioners have been clamouring for the compensation for a long period, as this petition has also been sub judice before this Court since the year 2019.

8. In view of the pleadings of the parties available on file, nothing remains to be decided and the petition is taken up for final consideration at this stage. Since the respondent-Collectorate had admitted the claim filed by the petitioner on behalf of the Panchayat Halqa Ashmar-Farmote, therefore, the petition is allowed with a direction to the respondent-Collector to workout as to what is the compensation released by the indenting Public Works Department for the construction of Sangladhan-Kanthan road falling in villages Ashmar & Farmote, Tehsil & District Ramban and as to what is the entitlement of the petitioner-local panchayat with regard to compensation of the common land in terms of the judgment passed by this Court in Habibullah Sheikh case (supra).

9. The respondent No. 4, on behalf of the indenting department shall deposit the amount of compensation on account of the Panchayat within a period of eight weeks from the date of this order. The respondent-Collectorate is directed to make payment of the compensation expeditiously, preferably within a period of three months from the date, a certified copy of this order is made available to the respondent-Collectorate.

10. Petition is, accordingly, **disposed of** alongwith connected application(s).

JAMMU
22.11.2024
Ram Krishan



(M A CHOWDHARY)
JUDGE

Whether the order is speaking? Yes
Whether the order is reportable? Yes