

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

**WP (C) No.1726/2020**

**Abdul Salam Bhat and others**

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

Through: Mr. Shafqat Nazir, Advocate

**Vs.**

**Government of J&K and others**

...Respondent(s)

Through: Mr. Allau-ud-din Ganai, AAG

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

**ORDER**

**07-09-2022**

In view of the averments made in the application CM No.1943/2022 coupled with the submission made at bar, application is allowed and the writ petition is withdrawn to the extent it pertains to applicant-petitioner Nos.1 and 5.

CM No.1943/2022 is, accordingly, **disposed of.**

1. Heard Sh. Shafqat Nazir, learned counsel appearing for the petitioners and Sh. Alla-ud-din Ganai, learned AAG, for the State.
2. The basic challenge is to the Land Acquisition Proceedings pursuant to the notification dated 20.03.2017 issued under Section 4 of Jammu and Kashmir Land Acquisition Act.
3. The primary argument of learned counsel for the petitioners is that the aforesaid land acquisition proceedings have lapsed by virtue of Section 11-B of the Act as no award within the period of two years was passed from the date the declaration under Section 6 was issued and published.
4. There is no dispute to the fact that the notification under Section 4 proposing to acquire the above land was issued on 20.03.2017. It was followed by declaration under Section 6 dated 08.08.2017. According

to the petitioners no award was passed at least within two years of the above declaration.

5. In the objections, respondents have stated that final award was made on 11.08.2020.
6. Section 11-B of the Act provides for making an award within a period of two years from the date of publication of the declaration and if no award is made within that period the entire proceedings for acquisition of land shall lapse. For the sake of convenience, Section 11-B of the Act is reproduced herein below.

[11-B. ***Period within which an award shall be made.***---The Collector shall make an award under Section 1 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of land shall lapse:

Provided that in case where the said declaration has been published before the commencement of the State Land Acquisition (Amendment) Act, 1997, the award shall be made within a period of two years from such commencement.”

7. A bare reading of the aforesaid provision reveals that the award has to be made within a period of two years from the date of publication of declaration under Section 6 and if the award is not so made, the land acquisition proceedings would lapse.
8. It is an admitted position that the urgency provisions under Section 17 of the Act were not invoked and the possession of the land continues to be with the petitioners. The respondents have not brought on record any possession memo to show that they have taken possession of land notified to be acquired in accordance with law so as to vest it with the State. Since the declaration under Section 6 was made on 08.08.2017,

therefore, the award ought to have been made by 08.08.2019 i.e., within two years. However, from the objections of the respondents, it is evident that no award was made within the above period. The award was made on 11.08.2020 which is certainly beyond the period of two years from the date of declaration and could not have been made as by that time the proceedings have already lapsed.

9. It is not the case of the respondents that the acquisition proceedings had remained stayed on account of some order of the court. In a similar matter pertaining to Budgam itself but in relation to different notifications, the Division Bench of this court in *WP (C) No.1861/2021 Aijaz Ahmad Wawa versus Union Territory of J&K and others decided on 30.08.2022*, in which one of us Hon'ble the Chief Justice was member, held the land acquisition proceedings have lapsed by virtue of Section 11-B of the Act as no award was made within a period of two years and that the vesting of the land had not been completed within the same period.
10. In view of aforesaid facts and circumstances, the writ in the nature of mandamus is issued declaring that land acquisition proceedings pursuant to the notification dated 20.03.2017 issued under Section 4 of the Act stands lapsed under Section 11-B of the Act for want of making an award within a period of two years from the date of declaration.
11. The writ petition is, accordingly, allowed.

**(PUNEET GUPTA)**  
**JUDGE**

**(PANKAJ MITHAL)**  
**CHIEF JUSTICE**