

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

CM No. 3062/2023 in
RP No. 40/2023

Reserved on: 28.04.2026
Pronounced on: 21.05.2026
Uploaded on: 22.05.2026

Whether the operative part or full
judgment is pronounced: Full

UT of Jammu and Kashmir and others

Petitioners

Through: - Mr. Mohsin Qadri Sr. AAG with
Ms. Maha Majeed Advocate

vs

Khalid Jehangir Bhat and others

...Respondent(s)

Through: - Mr. G.A. Lone Sr. Advocate with
Mr. Mujeeb Andrabi

CORAM: **HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**
HON'BLE MR. JUSTICE SANJAY PARIHAR JUDGE

JUDGMENT

Sanjeev Kumar, J

CM No. 3062/2023

This is an application seeking condonation of delay in filing the review petition seeking review of an order and judgment dated 28.10.2021 passed by this Court. There is a delay of 543 days in preferring the review petition.

We have heard learned counsel for the parties and perused the application seeking condonation of delay. There is, admittedly, a huge delay of 543 days in filing the review petition.

From the record, it transpires that the judgment sought to be reviewed was challenged before the Hon'ble Supreme Court by way of Special Leave Petition, and the Supreme Court, while partly allowing the appeal, granted liberty to the review petitioners to file a review petition before this Court. The delay occasioned, thus, cannot be said to be deliberate, but happened due to the petitioners bona fide pursuing the remedy of appeal before the Supreme Court.

We have also gone through the condonation of delay application and are satisfied that sufficient cause has been shown for condonation of delay. Accordingly, the application is allowed and the delay of 543 days in filing the review petition is condoned.

The application shall stand disposed of.

RP No. 40/2023

1 In this petition, the petitioners seek review of an order and judgment dated 28.10.2021 passed by this Court in WP(C) No. 1993/2019 titled *Khalid Jehangir Bhat and ors vs. UT of J&K and others and* connected matters.

Brief Facts:

2 The Registrar of Islamic University of Science and Technology, Awantipora ("IUST"), vide office communication dated 13.12.2016, placed an indent before the Collector, Land Acquisition,

Pulwama (“the Collector”) for acquisition of land measuring 46 kanals, 12 marlas, 6½ sarsai situated in village Awantipora (“the subject land”). The land was stated to be required for creation of additional infrastructure for IUST, Awantipora. Pursuant thereto, the Collector, vide Notification No. 03 of 2017 dated 02.05.2017, issued a notification under Section 4(1) of the J&K Land Acquisition Act, Samvat 1990 (“Land Acquisition Act”). In response to the said notification, which the Collector claims to have published in the manner prescribed under Section 4 of the said Act, some of the respondents, namely Mohd. Latief Guroo, Bashir Ahmad Guroo, Ghulam Mohi-ud-Din Guroo, and Firdous Ahmad Guroo, filed objections. They did not object to the acquisition or the public purpose for which the subject land was being acquired. Instead, they requested the Collector to consider providing them alternate land for shifting their residences or, in the alternative, adequate compensation so that they could purchase land for residential purposes.

3 The objections were considered and found untenable and were accordingly disposed of. Thereafter, the matter was placed before the District Price Negotiation Committee (“DPNC”) for holding negotiations regarding rates with the interested persons. The proceedings of the DPNC conducted on 07.10.2017 did not culminate in any settlement between the Collector and the interested persons. Consequently, the acquisition proceedings continued, and notifications under Sections 6, 7, and 17 of the Land Acquisition Act came to be issued.

4 Keeping in view the urgency involved in the matter, the Government invoked the emergency provisions contained in Section 17 of the Act and directed the Collector to take over possession of the land on expiry of 15 days from the date of publication of the notification under Section 9 of the Act and upon fulfillment of the conditions prescribed under Sections 9(2) and 17-A of the Land Acquisition Act. Accordingly, notifications under Sections 9 and 9-A of the Land Acquisition Act were issued vide notification dated 17.05.2018 calling upon the interested persons, as well as the indenting department, to state the nature of their respective interests in the land and the amount and particulars of the compensation claimed for such interests, along with objections, if any, to the measurement of the land within 15 days from the date of publication of the said notification. However, the Collector did not receive any objections either from the landowners or from the indenting department. The Collector thereafter made a tentative assessment of compensation and submitted the file to the Government through the Divisional Commissioner, Kashmir, for approval of the rates assessed. Upon approval by the competent authority, the Collector passed the final award vide communication dated 20.02.2020 for an amount of Rs. 7,33,18,205/-.

5 The owners, including the respondents herein, did not accept the compensation and instead filed WP(C) Nos. 1993/2019, 1034/2020, 1410/2020, and 1070/2020, wherein the writ petitioners, inter alia, sought quashing of the acquisition proceedings, particularly the notification issued under Section 4 of the Land Acquisition Act, and claimed compensation in terms of the provisions of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [“the Act of 2013”].

6 All the writ petitions were clubbed together and decided by a Division Bench of this Court vide order and judgment dated 28.10.2021. The Division Bench found fault with the manner in which the notification issued under Section 4 of the Land Acquisition Act had been published and also held that the final award dated 20.02.2020 passed by the Collector was beyond the prescribed period and, therefore, in violation of Section 24(1)(a) of the Act of 2013. Consequently, the Division Bench declared the entire acquisition proceedings, culminating in the award, to be null, void, and invalid in law.

7 Feeling aggrieved and dissatisfied with the decision of the Division Bench, the review petitioners approached the Hon’ble Supreme Court by way of Special Leave Petition challenging the judgment dated 28.10.2021. Leave was granted, and Civil Appeal No. 1052 of 2023 was partly allowed by the Supreme Court. The impugned order and judgment of Division Bench of this Court setting aside the award dated 20.02.2020 was held to be unsustainable and was, accordingly, quashed and set aside. However, with regard to the issue of valid publication of the notification under Section 4 of the Land Acquisition Act, the review petitioners were granted liberty to file a review petition along with additional documents which had been produced along with IA No. 23283/2023. The Supreme Court observed that, as and when such a review petition is filed, the same would be considered in accordance with law and on its own merits, subject to

proving the said additional documents and after giving an opportunity to the respondents herein. The Supreme Court further clarified that even in the event the High Court dismisses the review petition proposed to be filed by the review petitioners, the proceedings would relate back to the stage of the objections under Section 5-A of the Act and the acquisition proceedings would proceed further from that stage. It is in this background the instant review petition has been filed by the review petitioners.

Contentions of the Review Petitioners:

8 Review of the judgment dated 28.10.2021 is sought primarily on the ground that this Court failed to appreciate that the provisions of Section 4 of the Land Acquisition Act, insofar as they pertained to publication of the preliminary notification, were substantially complied with, inasmuch as some of the respondents herein had even filed objections which were considered in terms of Section 5-A of the Land Acquisition Act by the Collector concerned. It is submitted that the notification was not only published in two daily newspapers having wide circulation in the area, namely *Daily Aftab* and *Kashmir Images*, but was also affixed at conspicuous places for information of the villagers through the concerned Patwari and Naib Tehsildar of the area. Four of the petitioners even filed objections to the acquisition, which were duly considered and disposed of by the Collector under Section 5-A of the Act. It is argued that all the interested persons, i.e., the respondents herein, belong to Awantipora where the subject land is situated and were, therefore, fully aware of the notification issued by the Collector under Section 4(1) of the Land

Acquisition Act. It is a different matter that only four of them chose to file objections, and even those objections were not directed against the acquisition for a public purpose but were in the nature of requests to either provide alternate land for residential purposes or pay adequate compensation for shifting and constructing new residential units.

9 In a nutshell, the argument of the review petitioners is that the Division Bench, while passing the judgment sought to be reviewed, proceeded on technicalities and failed to appreciate that the object of publication of the preliminary notification under Section 4 of the Land Acquisition Act was fully achieved when the factum of acquisition came to the notice of the respondents. The Division Bench did not appreciate that the provisions of Section 4 of the Act had been substantially complied with and that no prejudice had been caused to the respondents by omission to publish the notification in a daily newspaper in the regional language.

Contentions of the Respondents:

10 *Per contra*, Mr. G.A. Lone, learned Senior Counsel appearing for the respondents, argued that the provisions of Section 4 of the Land Acquisition Act prescribing different modes of publication of notification under Section 4(1) of the Act are mandatory in nature, and failure to adhere to the prescribed mode and manner of publication vitiates the entire acquisition proceedings. He placed strong reliance upon a judgment of the Supreme Court in **J&K Housing Board and others vs. Kunwar Sanjay Krishan Koul, (2011) 10 SCC 714**. He would argue that, in the instant case, although the notification under Section 4(1) of the Land Acquisition Act was published in the *Urdu*

Daily Aftab, but the same was published in English language. According to him, it was obligatory upon the Collector to publish the notification under Section 4(1) of the Act in Kashmiri language, which is the regional language of the Kashmir Province, including village Awantipora.

Analysis and conclusions:

11 Having heard learned counsel for the parties and perused the material on record, we deem it appropriate first to set out the contours of the review jurisdiction of this Court. Although the provisions of the Code of Civil Procedure do not apply to writ proceedings with full rigor, yet the principles underlying the exercise of review jurisdiction can certainly be borrowed and applied to writ proceedings as well. The three grounds mentioned in Order 47 of the Code of Civil Procedure are as under:

- (i) Discovery of new and important matter or evidence which, despite exercise of due diligence, was not within the knowledge of the person seeking review or could not be produced by him at the time when the order or judgment was passed;
- (ii) Some mistake or error apparent on the face of the record;
- (iii) Any other sufficient cause.

12 In the given fact scenario, the first ground is not attracted. The review petitioners have tried to bring their case within the ambit of the second ground, namely, mistake or error apparent on the face of the record. A mistake or error apparent on the face of the record would be one which is self-evident and visible on the face of the order itself. Such mistake or error may be one of fact or law. Keeping in view the aforesaid ground of challenge, particularly the ground on which

emphasis was laid by learned counsel for the review petitioners, we proceed to examine the case on hand.

13 As is apparent from the narration of facts, the only issue that falls for determination before this Court is whether there was substantial compliance with the provisions of Section 4 of the Land Acquisition Act pertaining to publication of the preliminary notification.

14 Before we proceed further, we deem it proper to set out Section 4 (1) of the Land Acquisition Act, which reads thus:

“4. Publication of preliminary notification and powers of officers thereupon.

(1) Whenever land in any locality is needed or is likely to be needed for any public purpose the Collector shall notify it-

(a) through a public notice to be affixed at convenient places in the said locality and shall also cause it to be known by beat of drum and through the local Panchayats and Patwaries;

(b) in two daily newspapers having largest circulation in the said locality of which at least one shall be in the regional language”.

15. From a reading of Section 4(1) of the Act, it clearly transpires that whenever any land in any locality is needed or likely to be needed for any public purpose, the Collector shall issue a notification by adopting the following modes; (a) through a public notice to be affixed at convenient places in the said locality and shall also cause it to be known by beat of drum and through the local panchayats and patwaris; & (b) through publication in two daily newspapers having largest circulation in the said locality of which at least one newspaper shall be in the regional language.

16 In the instant case, when we examine the record, we find that a public notice was duly affixed at convenient places in the locality by the Patwari of the Patwar Halqa concerned, and the same was also made known to the general public. The communication of the Patwari of the Patwar Halqa, which is appended with the review petition at Annexure 3 and a copy whereof is also available in the original record, clearly indicates that such exercise was undertaken. So far as publication in two daily newspapers is concerned, the review petitioners have placed on record with this review petition a newspaper cutting of the Daily Aftab, Srinagar, whereas the notification was also published in another newspaper, i.e., Kashmir Images. Both the newspapers are admittedly in the English language, which, in any case, is not the regional language of Kashmir.

17 We can take judicial notice of the fact, and as a matter of fact this position is not disputed by learned counsel for the parties, that the regional language of the locality in question is Kashmiri and there is hardly any newspaper published in Kashmir in the Kashmiri language having wide circulation in the area. In that sense and eventuality, the doctrine of necessity would come into play. In the absence of any daily newspaper published in the Kashmiri language having wide circulation in the area in question, the requirement of publishing notification under Section 4(1) at least in one newspaper in the regional language is to be taken as dispensed with. The idea and object behind publication of a Section 4 notification through multiple means is to ensure that interested persons are made aware of the process of acquisition so that they could object to the acquisition of

land on available grounds. In the instant case, the notice was well published and was brought to the notice of interested persons not only by publication in two daily newspapers but also by affixing the same at conspicuous places in the locality and informing the villagers by the Patwari of the Patwar Halqa concerned. It is because of this publication, four of the respondents filed their written objections, not strictly objecting to the acquisition but making a request to the Collector concerned for providing them alternate land in lieu of the land sought to be acquired.

18 From the record, it clearly transpires that the aforesaid objections were considered by a Committee of Officers but were not found tenable. From a perusal of the original record, we also find that private negotiations were undertaken by the DPNC for settlement of the rates, in which the villagers were once again put on notice. As is recorded by the Collector concerned, the villagers, which would include the respondents as well, sought exorbitant rates and, therefore, the private negotiations could not be concluded. In the face of this material on record, it is very difficult, if not impossible, to say that the respondents were all along aware about the acquisition but did not object to it till the situation changed with the coming into force of the Jammu and Kashmir Reorganisation Act in the year 2019 and the extension of the Act of 2013 to the UT of Jammu and Kashmir.

19 In the instant case, the acquisition proceedings were initiated in the year 2017 and the final award was passed on 20.02.2020. The writ petition was preferred only after the Collector had made the final award. The Section 4 notification, which was in

existence since its issuance on 02.05.2017, was never called in question till the passing of the final award. The provocation to file the writ petition by the respondents was the extension of the Act of 2013 to the UT of Jammu and Kashmir on the promulgation of the J&K Reorganisation Act, 2019, which promised better compensation for land acquisition. It is only with a view to get rid of the acquisition proceedings initiated under the State Land Acquisition Act, as also to claim better compensation under the Act of 2013, the respondents decided to approach the Court and attack the initiation notification issued by the Collector under Section 4(1) of the Land Acquisition Act.

20 Viewed from any angle, we are of the considered opinion that there was substantial compliance with Section 4(1) of the Land Acquisition Act and the mere fact that the notification was not published in a newspaper published in the regional language like Kashmiri does not alter the position. The object of publication of a notice is to apprise the interested persons about the process of acquisition and provide them an opportunity to object to it. In the instant case, as stated above, four persons who are also respondents herein came forward and objected to the acquisition, and these four persons are no strangers but neighbours of the other respondents. It is in these circumstances, we are convinced from the material on record that all the interested persons, including the respondents herein, were aware of the issuance of notification under Section 4(1) of the Land Acquisition Act and it is only the four interested persons who came forward and filed their objections, whereas the rest acquiesced in it.

21 The judgment passed by the Supreme Court in the case of **Sanjay Krishan Koul** (supra), supra, is distinguishable on facts. The said judgment is rendered by a two-Judge Bench in the context of peculiar facts and circumstances of the case and, therefore, cannot be said to have laid down a binding precedent of universal application. Under similar circumstances, a Division Bench of this Court in the case of **Ramesh Chander and ors. v. UT of Jammu and Kashmir and others**, (LPA No. 158/2020, decided on 08.06.2023), has pointed out the distinguishing features of the judgment rendered by the Supreme Court in **Sanjay Krishan Kaul** (supra). The reasons indicated in paragraph 22 of the said judgment read as under:

“22. As is evident from a reading of [Section 4](#) of the Act of 1990, the object of publication of notice is to apprise the interested persons about the process of acquisition and provide them an opportunity to object to the acquisition. The writ petitioners had in anticipation objected to the acquisition when they made representation to the Collector Land Acquisition seeking his indulgence to change the alignment of the flyover so as to save their lands and the houses constructed thereon from coming under the process of acquisition. Had the writ petitioners been served with the notification under [Section 4\(1\)](#) through publication in widely circulated newspaper including one in regional language, it would not have improved their position in any manner. Their protest to the acquisition already stood registered with the Collector Land Acquisition. The judgment passed by the Supreme Court in the case of [Kunwar Sanjay Kishan Koul](#) (supra) is distinguishable on facts. The aforesaid judgment is rendered by a two-Judge Bench in the context of peculiar facts and circumstances of the case. The judgment is distinguishable for the following reasons:-

i) That in the aforesaid case it was found that the publication was not done in a daily newspaper in the regional language but it was not pleaded before the Supreme Court nor there was any material on record to

indicate that there was hardly any publication of daily newspaper in the regional language i.e. Kashmiri in Kashmir.

ii) That the interested persons who were original residents of Kashmir had migrated and were staying in New Delhi due to disturbance in the area in question and that there was no effort made by the authorities to send them proper notice.

iii) That like in the present case it was not the case of the Collector Land Acquisition in [Kunwar Sanjay Kishan Koul](#) (supra) that the interested persons otherwise had a proper notice and knowledge of the land acquisition notice.

iv) That the judgment of the Coordinate Bench of the Supreme Court in *J. Sivaprakasam* (supra) relied upon by the Writ Court was not brought to the notice of the Division Bench, which decided *Kunwar Sanjay Kishan Koul*'s case (supra)".

22 We have gone through both the judgments, which are by Benches of co-equal strength, and we are inclined to place reliance upon the judgment in **Special Deputy Collector, Land Acquisition, CMDA v. J.Sivaprakasam and others; (2011) 1 SCC 330**, which is though rendered at an earlier point of time but is nearer to the facts and circumstances of the instant case. Placing reliance upon **J. Sivaprakasam's case** (supra), we hold that there is substantial compliance with the provisions of Section 4(1) of the Land Acquisition Act. At this juncture, we would like to set out paragraphs 25 to 30 of *J. Sivaprakasam's case*, supra, which read thus:

"25. We have held that the object and purpose of the amended [section 4\(1\)](#) of the Act is to provide for publication of the preliminary notification in two daily newspapers having reasonably wide circulation in the locality so that people (persons interested) in that locality

may become aware of the proposals for acquisition. We have also held that publications in two newspapers having regular and steady circulation, but having a market share of only 2% to 3% of the total newspapers cannot invalidate the acquisition proceedings automatically, on the ground that such publication violates the requirement of [section 4\(1\)](#) relating to newspaper publication. As the said two findings are slightly contradictory, it is necessary to harmonize the consequences.

26. This leads us next to the consequences of publication of the notification in two newspapers having reasonably wide circulation and consequences of bona fide publication of the notification in two newspapers which do not have a wide circulation in the locality.

27) If there is failure to publish in two daily newspapers or if the publication is in two newspapers that have no circulation at all in the locality, without anything more, the notification under [section 4\(1\)](#) of the Act and the consequential acquisition proceedings will be vitiated, on the ground of non-compliance with an essential condition of [section 4\(1\)](#) of the Act.

28) If the two newspapers carrying the publication of the notification have reasonably wide circulation in the locality, (apart from the publication of the notification in the Gazette and causing public notice of the substance of the notification to be given at convenient places in the locality), then the requirements of [section 4\(1\)](#) are complied with and all persons concerned in the locality shall be deemed to have notice of the notification. (For this purpose, the publication need not be in newspapers having the widest or largest circulation, but it is sufficient if the publication is in newspapers having reasonably wide circulation). In that event, neither the notification under [section 4\(1\)](#), nor the consequential acquisition proceedings would be open to challenge, on the ground of violation of [Section 4](#) of the Act.

29) If the newspapers in which the notification is published were circulating in the locality, but did not have a reasonably wide circulation in the locality, then neither the notification under [section 4\(1\)](#) nor the consequential acquisition proceedings, will become vitiated automatically. If the person aggrieved, apart

from demonstrating that the two newspapers did not have reasonably wide circulation in the locality, also asserts that as a consequence, he did not have notice of the proposed acquisition that was provided for in [Section 4\(1\)](#) of the Act, in the absence of evidence to the contrary, the acquisition to the extent of the land of such person will be vitiated. But if such assertion is rebutted by the acquiring authority by placing evidence to show that the person concerned had in fact notice (as for example where he participated in the enquiry under [section 5A](#) of the Act), the acquisition will not be vitiated on the ground of violation of [section 4A](#) of the Act.

30) If the person challenging the acquisition is able to establish that the notifications were deliberately and with malafides, published in newspapers having negligible circulation, to avoid notice to the persons concerned, then [section 4\(1\)](#) will be violated."

23 From the above, there is no manner of doubt that in the instant case there was substantial compliance with the provisions of Section 4(1) of the Land Acquisition Act. The Division Bench of this Court, which passed the judgment sought to be reviewed, did not consider this aspect of the matter and, therefore landed in an error apparent on the face of the record when it held that the Section 4(1) notification was vitiated for not having been published in a daily newspaper in the regional language. The Division Bench did not appreciate that apart from the publication of the Section 4(1) notification in the two daily newspapers, the notice was also affixed at conspicuous places in the locality where the land needed for acquisition was situated and that the Patwari of the Patwar Halqa had also informed all the interested persons, including the respondents herein. The Division Bench also failed to take note of the fact that four villagers of the same village had filed written objections to the

acquisition notification issued under Section 4(1) of the Act. The Division Bench also did not consider the fact that the interested persons had also been summoned to participate in the Private Negotiations Committee meeting, which, of course, ended without any success as the landowners demanded exorbitant rates.

24 It is true that the modes of publication of notice prescribed under Section 4(1) of the Land Acquisition Act are mandatory in nature, so as to ensure that the interested persons whose land is needed for a public purpose are given adequate notice to object to the acquisition. However, if it is demonstrated before the Court that, notwithstanding some irregularity in the publication of notice, the interested persons were well aware of the notice and some of them had even submitted their objections, there would still be substantial compliance with the provisions of Section 4(1) of the Act. This is precisely what was held by the Supreme Court in the case of **J.Sivaprakasam** (supra).

25 For all the foregoing reasons, we find merit in this review petition. The same is, accordingly, allowed. The judgment dated 28.10.2021 is recalled and the writ petitions are dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

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

Jammu
Sanjeev
21 .05.2026