

Government of Jammu and Kashmir
Home Department
Civil Secretariat, Srinagar.

Subject: Order dated 13.10.2014 passed by the Hon'ble High Court in OWP No. 300/2009-Appointment of Arbitrator reg.

Ref. : i). Letter No.LH/670-72 dated 11.01.2018 and No. DCR/2018-19/LH /37025-27 dated 09.03.2019 of Deputy Commissioner, Rajouri.
ii).U.O No. Law-Arb/11/2021 dated 28.10.2021 of the Department of Law, Justice and Parliamentary Affairs.

Government Order No.: 35 -Home of 2022
Dated :10.02.2022

Whereas, land measuring 210Kls and 13Mls situated at Village Pathan Mohra, Tehsil and District Rajouri was requisitioned by the Government under the Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Act, 1968, vide Notice-J, issued under endorsement No. Home/CL-38/91 dated 24.02.1999; and

02. Whereas, the Deputy Commissioner, Rajouri vide the letters under reference intimated that one of the land owners namely, Mr. Bharat Bhushan, received 80% of the compensation assessed in respect of his share of land measuring 32 Kanals and 16 Marlas falling under Khasra No.s 45, 46, 59 & 62, and thereafter filed an OWP No. 300/2009 titled *Bharat Bushan vs. State and others* before the Hon'ble High Court, J&K, Jammu, praying therein for a direction upon the respondents to appoint an arbitrator for determination of compensation in respect of his share of land; and

03. Whereas, the petition was disposed of by the Hon'ble Court, vide order dated 13.10.2014, inter-alia directing the respondents to appoint an Arbitrator in the matter for assessment of an appropriate compensation and pass a consideration order in this regard; and

04. Whereas, upon examination of the matter, in consultation with the Department of the Law, Justice and Parliamentary Affairs, it has been observed that the petitioner had belatedly viz. after eighteen years from the date of issuance of From-J and the apportionment statement applied for appointment of an Arbitrator, which conduct cannot be brushed aside. Further, there is noting on record to suggest that the petitioner had within a period of fifteen days of the receipt of the offer communicated in writing to the Competent Authority, his acceptance or otherwise of the offer as provided under Rule 9 (5) of the Jammu and Kashmir Requisitioning and Acquisition of Immovable Property Rules,1969; and

05. Whereas, the rule *ibid* provides for appointment of an arbitrator only in a case where there is no agreement between the parties on account of compensation payable to the land owners. In the instant case, the petitioner having received 80% of the assessed compensation is estopped in law from claiming appointment of an arbitrator as a matter of right.

06. Now, therefore, in due deference to the order dated 13.10.2014 of the Hon'ble High Court, Jammu passed in OWP No. 300/2009 titled *Bharat Bushan vs. State and others*, the claim of the petitioner for appointment of an Arbitrator for assessment of appropriate compensation in respect of his land measuring 32 Kanals and 16 Marlas, falling under Khasra No.s 45, 46, 59 & 62 situated at Village Pathan Mohra, Tehsil and District Rajouri, is found devoid of merit for the reasons recorded hereinabove and accordingly rejected.

By order of the Government of Jammu and Kashmir.


(Rashid Raina) JKAS

Under Secretary to the Government.

No. Home-LA/52/2021-05-Home (CC: 19089)

Dated:10.02.2022

Copy to the:

1. Principal Secretary to the Hon'ble Lt. Governor, J&K.
2. Commissioner/Secretary to the Government, Revenue Department.
3. Secretary to the Government, Department of Law, Justice and Parliamentary Affairs.
4. Divisional Commissioner, Jammu.
5. Director, Archives, Archaeology and Museums, J&K Jammu/Srinagar.
6. Shri Raman Sharma, Ld. Addl. Advocate General, Hon'ble High Court J&K and Ladakh.
7. Deputy Commissioner, Rajouri.
8. Private Secretary to the Principal Secretary to the Government, Home Department.
9. In-charge website, Home Department.
10. Government order file (w.3.s.c)/ Stock file.