

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1082/2020

Swarn Kanta and another

.... Petitioner/Appellant(s)

Through:- Mr. Dhiraj Chowdhary, Advocate.

V/s

UT of J&K and others

.....Respondent(s)

Through:- Ms. Aparna Gupta, Advocate vice
Mrs. Monika Kohli, Sr. AAG.
Mr. F.A. Natnoo, Advocate.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
ORDER

29.02.2024

01. Petitioners have approached this Court, seeking a direction to respondent No. 2 to dispose of the application filed by them pursuant to which the Custodian Evacuee Property, J&K, Jammu/PRO issued notices to respondent No. 3 vide order dated 02.05.2018 and 18.09.2019. They also seek a direction to respondent No. 1 to take appropriate action against the then Custodian Evacuee Property/Ex-Officio Provincial Rehabilitation Officer, Jammu along with a direction to respondents No. 1 and 2 to recover an amount of Rs. 4,39,752/- from respondent No. 3 and release the same in favour of the petitioners along with interest.

02. The controversy in this petition arises from the fact that, as per the record, the parties are siblings and displaced individuals from 1947, i.e., respondent No. 3 is the real brother of petitioners. The petitioners are family members of the said displaced family, which consisted of six members at the time of migration. The Government of India decided to grant compensation as a one-time settlement to each family/kumba of the

displaced persons, amounting to Rs. 5,49,692/- (Five Lakh Forty Nine Thousand Six Hundred Ninety Two).

03. As per the record, the family of the petitioners comprised six individuals, namely Raj Paul Sharma, Pushpa Devi, Swaran Kanta, Shakuntla Devi, Kewal Kumar, and Lalita Sharma. The mother of the parties, Pushpa Kumari, passed away in 2006, and now, the petitioners' sister, Shakuntla Devi, who was unmarried, also passed away on 24.01.2020. After the demise of the sister and mother of the parties, the parties involved in this petition are entitled to receive the afore-mentioned compensation in equal proportion/share.

04. The contention of the petitioners is that their brother i.e., respondent No. 3 approached respondent No. 2 for the release of the aforementioned compensation in his favor and the same was transferred in his favour. The petitioners also approached the office of respondent No. 1 for the release of compensation in their favor, as per their entitlement, however, respondent No. 2 informed the petitioners that he had transferred the entire compensation amount, i.e., Rs. 5,49,692/-, in favor of respondent No. 3 to his account at the J&K Bank.

05. The petitioner No. 3 filed a civil suit titled '*Kewal Sharma vs. Raj Paul Sharma and another*', but later, the same was withdrawn on 23.07.2018 on the assurance extended by respondent No. 2. Thereafter, the respondent No. 2 vide his communication dated 02.05.2018, on the application filed by the petitioners, directed the respondent No. 3 to appear in his office on 18.05.2018 and again vide his communication dated 18.09.2018 directed respondent No. 3 to deposit the cheques amounting to Rs. 1,09,938/- each in favour of the petitioners so that the same can be disbursed in favour of the

petitioners. Respondent No. 3 neither responded to the same nor deposited the amount despite the fact that respondent No. 3 did not deposit the amount and respondent No. 2 has failed to take any action against him.

06. It appears that respondent No. 2, through communication dated 02.05.2018, directed respondent No. 3 to appear in his office on 18.05.2018. In another communication dated 18.09.2018, respondent No. 2 directed respondent No. 3 to deposit cheques amounting to Rs. 1,09,938/- each in favor of the petitioners so that the funds could be disbursed to them, however, respondent No. 3 did not respond to the same. Consequently, feeling aggrieved by this, the petitioners filed the present writ petition.

07. Mr. F.A. Natnoo, appearing on behalf of respondent No. 2, submits that the dispute is purely a private dispute in nature. He has placed on record a communication dated 23.02.2024 of respondent No. 2 addressed to the Deputy Commissioner, Jammu, wherein it is stated that upon receipt of application from the petitioners, they have requested the Deputy Commissioner, Jammu, to initiate recovery proceedings against respondent No. 3 namely Raj Paul Sharma, under Section 90 of the Land Revenue Act. However, during the pendency of this petition, Raj Paul Sharma has passed away and the outstanding amount is to be recovered yet.

08. The communication No. PRO/2023-24/512, dated 23.02.2024 is taken on record.

09. In view of the aforesaid, as the respondents have already initiated recovery proceedings against respondent No. 3, nothing remains to be adjudicated in this petition. Therefore, this petition is disposed of with a direction to the Deputy Commissioner, Jammu, to conclude the recovery proceedings expeditiously, preferably within a period of four months by

passing a speaking order in this regard from the date a copy of this order is furnished upon him.

(Sindhu Sharma)
Judge

Jammu:

29.02.2024

Michal Sharma/PS

