

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

Case No. :- WP (C) No. 1283/2021  
CM No. 5248 & 5249 of 2021

Lekh Raj & Ors.

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

Through: Mr. B R Manhas, Advocate

**Vs**

UT of J & K & Ors.

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG  
Mr. Ravinder Gupta, AAG

**Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**ORDER**

**31.07.2024**

1. The short submission which has been advanced by learned counsel for the petitioners is that the respondents without following due process as envisaged under Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter to be referred to as "**The Act**") are conducting the survey of the land of the petitioners in question which is not permissible under law.
2. Learned counsel for the petitioners has placed reliance on Section 12 of the Act, a perusal whereof would reveal that for the purposes of enabling the appropriate Government to determine the extent of land to be acquired, it shall be lawful for any officer, either generally or specifically authorized by such Government in this behalf, and for his servants and workmen. Clauses (a) to (e) of Section 12 of the Act provides

that no act under clauses (a) to (e) in respect of land shall be conducted in the absence of the owner of the land or in the absence of any person authorized in writing by the owner. It is also provided that the acts specified under the first *proviso* may be undertaken in the absence of the owner, if the owner has been afforded a reasonable opportunity to be present during the survey, by giving a notice of at least sixty days prior to such survey.

3. Mr. Manhas, further submits that neither any notice with regard to the survey of the land in question has been issued to the petitioners nor any opportunity of being heard within a time period specified under the provisions of law has been granted to the petitioners till date.
4. Per contra, learned counsel for the respondents submits that the petitioners are not allowing the Government officials to conduct the survey and this is precisely the reason that the proceedings could not be brought to the logical conclusion.
5. Heard learned counsel for the parties at length and perused the material available on record.
6. Since, the innocuous prayer has been made by the petitioners that the procedure as laid down under Section 12 of the Act is not being followed by the respondents in its letter and spirit, this Court deems it appropriate to dispose of the instant writ petition at this stage, by directing the respondents to provide an opportunity of being heard to the petitioners within a period prescribed under Section 12 of

the Act before conducting any survey. Subject to notifying the date to the petitioners in advance, the respondents are at liberty to proceed in accordance with law with respect to the survey of the land in question, as the respondents are under legal obligation to follow the procedure envisaged under the Act in case if they intend to acquire the land of the petitioners in question. However, this direction is confined only to the petitioners in the instant case.

7. In the aforesaid backdrop, nothing remains to be adjudicated in the instant petition, and accordingly, **the same is disposed of along with connected CMs, if any**, in the manner indicated above.

JAMMU  
31.07.2024  
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(Wasim Sadiq Nargal)  
Judge



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