

**IN THE COURT OF SUB JUDGE GANDERBAL**

Case No. 13/2024  
CNR No:JKGB02000092024  
D.O.I. 20.01.2024  
D.O.D. 21.06.2024

**In the case of:-**

1. Noor Mohammad Gojar Chichi  
S/o Alf Din Gojar Chichi
2. Ghulam Hassan Gojar Chichi  
S/o Noor Din Gojar Chichi  
Both Residents of Chountwar Lar Ganderbal

....Decree Holders

...Through; Mr. Iqbal Ahmad Reshie, Advocate

**Versus.**

1. State through Commissioner Secretary  
Revenue Civil Secretariat Srinagar
2. Commissioner Secretary R & B Department  
Civil Secretariat Srinagar/Jammu
3. Collector Land Acquisition Ganderbal/  
Deputy Commissioner Ganderbal.
4. Tehsildar Lar.
5. Chief Engineer R& B Rajbagh Srinagar
6. Executive Engineer R&B Division Ganderbal  
(Mini Secretariat Ganderbal.)

....Judgment Debtors

...Through; Ms. Burjeena, Ld. Standing Counsel

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**In the matter of : Execution Petition**

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**CORAM: Fayaz Ahmad Qureshi J.O. Code: JK00169**

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**ORDER**

1. This execution petition has been taken up today in which Ld. Counsel for the decree holder is present. Ld. Standing counsel for judgment debtors is also present who submits that an appeal

has been preferred against the judgment and decree passed by this court dated 31.10.2022 but however, till date no stay has been obtained from the hon'ble appellate court.

2. Before proceeding further it shall be appropriate to reproduce the operative part of the judgment which has been extracted from Para 17 & 18 of the judgment:

17. "Therefore, considering the oral as well as documentary evidence placed on record and the law on the subject, a decree of declaration is passed and the plaintiffs are declared entitled to compensation for the quantum of the land which has been taken by the defendant No. 5 and 6 for construction of the road from the land falling under Khasra numbers 835/216 of plaintiff No. 1 and 924/291 of plaintiff No. 2 situated at mouza Choutwaliwar Lar Ganderbal.

18. Further, a decree of mandatory injunction is passed and the defendants are hereby directed to make the assessment of the quantum of the land of both the plaintiffs which has come under the construction of the road from Khasra No. 835/216 and 924/291 situated at mouza Chountwaliwar Lar Ganderbal who shall process the case as mandated under The Right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 for payment of compensation to the plaintiff within two months from the date of this judgment and are directed to pay the requisite compensation to the plaintiffs for the land taken from them without any further delay. Office is directed to prepare a decree sheet accordingly. No order as to costs."

3. It is settled position of law that unless a stay order is passed expressly, mere filing of appeal will not operate as a stay. Therefore, the position as on date is that despite the judgment having been passed by this court the defendants have not complied with the same. It appears as if the defendants have made mockery of the justice and they have played with the judgment without any compliance from them. The defendants might be under an impression that this judgment is merely a piece of paper which will be complied with by them at their sweet will and desire. In a state/country governed by rule of law this approach cannot be tolerated. Once a judgment has been passed, the defendants being public functionaries are under duty and responsibility to honour the judgment in letter and spirit unless stayed by the competent court. The same has not been done by the defendants. It is prayed by the Ld. Counsel for the decree holders that the judgment debtors may be sent to civil prison for enforcing the judgment and decree passed by this court and their salary may be attached so that the judgment is implemented in letter and spirit.
4. Considered the execution petition and perused the judgment and decree passed by this court. This court, after full dressed trial, has held the plaintiffs entitled to compensation for quantum of land which has been taken by the defendants 5 & 6 for construction of road from land falling under Khasra No. 835/216 of plaintiff No. 1 and 924/291 of plaintiff No. 2 situated at Chountwaliwar Lar Ganderbal and further direction has been passed on all the defendants to make assessment of the quantum of land of both the plaintiffs which has come under the

construction of the road from the above mentioned survey numbers and process the case as per mandate of the Right to Fair Compensation and Transparency of Land Acquisition for payment of compensation within a period of **two months** from the date of the judgment and they are also directed to pay the requisite compensation to the plaintiffs without any further delay.

5. The direction on all the defendants was to comply with the judgment and decree within a period of two months but despite lapse of more than 08 months the judgment debtors are yet to comply with the judgment and they seem to fiddle with legal process. The judgment debtors may have many reasons to cite but for this court, there is non-compliance on the part of the defendants and in these circumstances, this court deems it appropriate to seek enforcement of the judgment and decree passed by this court through coercive measures and for this purpose, this court is constrained by the circumstances to have recourse to Order 21 Rule 30 CPC which lays down two modes for execution of the decree which is sending the judgment-debtors to civil prison or by attachment and sale of his property or by both.
6. Since the defendants are official functionaries and public servants, they are expected to behave as a law-abiding and peace-loving citizens. Any dereliction or lapse on their part cannot be viewed lightly as because of their inaction and disobedience to the judgment and decree, the plaintiffs have been constrained to approach this court by virtue of an execution petition. As public servants, the defendants are under legal, statutory and constitutional duty to uphold the law of the

- land and follow the direction of the court but they have failed and no sufficient reason has been given for non-compliance forcing the decree holders to move from pillar to post to seek execution of the judgment and decree passed in their favour.
7. The plaintiffs are yet to reap the fruits of the decree which they have obtained after long legal battle and as such, this court deems it appropriate to have recourse to both the modes provided for enforcing judgment and decree passed by this court.
  8. Therefore, office is directed to issue bailable warrants against all the judgment debtors including Commissioner Secretary Revenue Civil Secretariat Srinagar, Commissioner Secretary, R&B Department Civil Secretariat Srinagar, Collector Land Acquisition Deputy Commissioner Ganderbal, Tehsildar Lar, Chief Engineer R&B Rajbagh, Srinagar, Executive Engineer R&B Division Ganderbal. The warrant shall be issued to the tune of Rs. 50,000/-. DIG Central is directed to execute the warrant positively without any failure. DIG Central is directed that in case the judgment debtors do not or fail to furnish bail bonds as directed by this court, they shall be taken into custody and produced before this court.
  9. Simultaneously, this court deems it appropriate to attach the salary of all these judgment debtors to ensure that judgment and decree is complied with and the decree holders reap the fruits of the judgment and decree which they have obtained.
  10. The concerned DDOs as well as the Treasury Officers shall not release the salary of all these judgment debtors till further orders or till judgment and decree is complied with so as to instill a sense of discipline for compliance with court orders and

seek enforcement of the judgment and decree passed by this court. Let copy of this order be sent to all the judgment debtors including DIG Central Srinagar for compliance along with copy of the judgment and decree as well as bailable warrants as stated above. One copy each shall be sent to concerned DDOs and the Treasury Officers. However, if in the meantime the judgment debtors comply with the judgment and decree passed by this court in letter and spirit they shall not be arrested and their salary shall, subject to an express order from this court, shall be detached. A copy of this order be sent to Chief Secretary UT of J&K for his information about the state of affairs within the UT of J&K where public servants are sitting over the judgments of court. Put up this execution petition on 09.07.2024.

**Announced:  
21.06.2024**

**Sub Judge  
Ganderbal**

**Copy forwarded to:**

1. Commissioner Secretary Revenue Civil Secretariat Srinagar
2. Commissioner Secretary R & B Department Civil Secretariat Srinagar/Jammu
3. Collector Land Acquisition Ganderbal/ Deputy Commissioner Ganderbal.
4. Tehsildar Lar.
5. Chief Engineer R&B Rajbagh Srinagar
6. Executive Engineer R&B Division Ganderbal (Mini Secretariat Ganderbal.)
7. Concerned Treasury Officers.
8. Chief Secretary UT of J&K for information.

**Sub Judge  
Ganderbal**