

**Government of Jammu and Kashmir
Revenue Department
Civil Secretariat, Jammu/Srinagar**

Subject: Acquisition of land measuring 01 Kanal 05 Marla & 07 Sirsai situated at village Berigam, Tehsil Devsar, District Kulgam required for construction of road from Main Road Berigam to Gundipora.

**Notification No. 08-Rev(LAJ) of 2022
Dated: 24.01.2022**

Whereas, a notification under section 6 & 7 of Land Acquisition Act 1990 was issued vide No.194-REV(LAJ) of 2018 dated 25.04.2018 for acquisition of land measuring 01 kanal 05 marla 07 sirisai at village Berigam, Tehsil Devsar, District Kulgam for public purposes viz. construction of road from main-road Berigam to Gundipora ; and

Whereas, Mst Shahmala Begum & Ors filed a writ petition OWP No.1191/2018 titled Mst Shahmala Begum & Ors Vs State & others before the Hon'ble High Court, J&K Srinagar. The Hon'ble Court vide order dated 26.02.2019 passed the directions as under:

"In view of the discussions made hereinabove, I find in this petition and same is accordingly allowed. Notification No.194 -Rev(LAJ) of 2018 dated 25.04.2018, is quashed." The respondent No.1, however, shall proceed to consider the record of the proceedings conducted by the respondent no. 4 under section 5 A of the Act and the report containing recommendations, if any, on the objections of the petitioners submitted by him and take a decision in terms of section 5 A of the Act before issuing formal declaration in terms of section 6 of the Act".

Whereas, in pursuance of the above direction, the Collector Land Acquisition called a report from Tehsildar concerned to ascertain the factual position and also recorded statements of the land owners wherein they have stated:-

"That the construction of said road doesn't serve public purpose and is required only for four households and stated that these households have alternate facility of ingress-egress. The said road didn't lead to any built up or agricultural area, and also there is no entry of pathway in the revenue records and they are not ready to allow the construction of said road, and also stated that they have only the subject proprietary land which is coming under the proposed construction".

Whereas, the Collector Land Acquisition also visited the spot on 31st Aug., 2019 alongwith Revenue field staff to ascertain the factual position. The Tehsildar concerned was directed to prepare sketch of the land showing the dimensions being used or to be



put to use as pathway for ingress-egress. Besides, landowners were again called to attend the Collectorate on 28.10.2019 and their statements were recorded; and

Whereas, the Collector has furnished a report on the basis of records, sketch, statement of land owners and the spot visit, with the following findings:

- i. That out of 01 Kanal 05 Marlas & 07 Sirsal, notified land for the construction of the said road, objections have been received for less than 07 Marla out of the total notified land.
- ii. That out of the three possible links that connects the households with the main road (Gundipora Berigam road) for ingress-egress, one passes through paddy fields, recorded as Aabi Awal having distance of 325 Sq feet (approximately) from the main road and is presently being used by the households (ridge of approximately 1 feet width) as pathway; the second option available is 665 Sq. feet from the main road and passes through Migrant/Agrarian Land and will involve acquisition of more land/structures for construction of road; and the third link is 230 Sq feet (approximately) from the main road, recorded as Maidani in the Revenue records and is presently vacant/under poplar plantation and is the patch of land that has been notified for the said construction.
- iii. That the pathway presently being used by the households is a ridge of only 1 feet width passing through the paddy fields (Aabi-Awal) and is in no way feasible for ingress-egress. The condition of the pathway becomes worst during inclement weather and during paddy plantation. Public in general and old aged, sick, children/School going children, in particular or in case of a death for that matter, suffer badly & the households don't have a feasible connectivity with the main road.
- iv. That the proposed road will be used by the households residing in survey No. 266, of estate Berigam, in particular and public, having agricultural/horticultural land on that side of the village, in general. The proposed road will provide all weather connectivity with the main road to the households and the public.
- v. During the record of proceedings, landowners who filed objections for the construction of said road have given varied statements, and doesn't hold any merit.

Whereas, on the basis of above findings, the Collector submitted the case alongwith the record of proceedings held by him and his recommendations that the objections do not hold any merit and requested for taking decision into the objections and for making declaration under Section 6 & 7 of the Land Acquisition Act, Svt., 1990. The case is duly endorsed by District Collector (DC, Kulgam) vide No. DCK/LA-552/2020/451-55 dated 25.01.2020, Divisional Commissioner, Kashmir vide No. DivCom/LAS-Acq/3263/7096 dated 14.02.2020, Financial Commissioner, Revenue, J&K vide No. FC-LS/LA-5700/2020 dated 04.03.2020; and

Whereas, the objections have been examined in the department, the Collector Land Acquisition has given objectors opportunity of being heard in person and after hearing all the objectors and has made further inquiry by conducting the spot visit and obtaining reports from revenue field staff. It is found that the objections are with

regard to a small quantum of land i.e 07 Marla out of the total notified land. The type of land is "Maidani" (agricultural) in the revenue records and is presently vacant/under Poplar plantation and the path way presently being used by the households becomes worse during inclement weather and public in general and old age, sick, school children suffer badly as the households don't have a feasible connectivity with the main road. The proposed road will provide all weather connectivity with the main road to the households and public; and

Whereas, the objection of the petitioners is that the road is only for few households and is the land their only source of income. However, Deputy Commissioner, Kulgam vide his No. DCK/LA-552/2020 /697 dated 22.08.2020 has reported that the petitioners from S. No. 1 to 8 are entitled to 9 kanals 03 Marlas of land under survey numbers viz., 275, 362, 399 Min, 263 Min, 387 Min, 482 Min, 483 Min and 484 of estate Berigam and the said land is still in the name of their father (deceased) and is yet to be mutated in favour of legal heirs. Besides Petitioner No. 1 is pensioner, Petitioners No. 2,4,5,6,7 are Government employees. Meanwhile petitioner no. 6, 7 & 8 are married outside home. The report of Tehsildar vide No. 483/OQD dated 01.10.2020 duly endorsed by Deputy Commissioner, Kulgam vide his No. DCK/LA-552/2020/787 dated 02.11.2020 reveals that the petitioners 1, 2, 4, 5, 6, 7 are pensioners/Government employees thus their primary source of income is clearly evident. Although, rest of the petitioners are dependent on agricultural land but the land from Survey No. 263 Min for the proposed road is recorded as 'Maidani' is 'Banjar' on the spot. The details of the land in possession of petitioners 1 to 11 at village Berigam, Tehsil Devsar, District Kulgam are given below and no land of petitioner no. 12 is affected:-

S. No	Name of petitioner/Land owner	Parentage	Occupation of petitioner	Quantum of land in possession			Status of land	Remarks
				Survey No.	K	M		
1	Shahmala Begum	Wd/O Mohd Ismail Dar	Pensioner	275, 362 Min, 399	09	03	1. land under survey numbers viz., 275,399 min, 362 & 484 Min is recorded as Abi Awal. 2.Land under survey No. 482 Min & 483 min is recorded as Abi-wari. Land under survey No.263 min is recorded as Maidani .same is on spot "Banjar".	The petitioners 1 to 10 are in occupation of land, as tenants, measuring 12 Kanal and 12 Marla under survey Nos. 28, 7, 15, 16, 23 & 24 at estate Gundipora. Although mutation under section 4 of Agrarian Reforms had been attested in favour of the occupants but Mutation under section 8 not attested yet.
2	Khursheed Ah Dar	Mohd Ismail Dar	Govt Employee	Min, 263				
3	Gul Mohd Dar	Mohd Ismail Dar	Panch	Min, 387				
4	Ab Majeed Dar	Mohd Ismail Dar	Govt Employee	Min, 482				
5	Nisar Ahmad Dar	Mohd Ismail Dar	Govt Employee	Min, 483				
6	Shameema Akhter	Mohd Ismail Dar	Govt Employee	Min & 484 Min				
7	Kulsuma Akhter	Mohd Ismail Dar	Govt Employee					
8	Fahmeeda Akhter	Mohd Ismail Dar	Nil					

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9	Gh Nabi Wani	Sonaullah Wani	Nil	263 Min	03	04	Land under survey No. 263 Min is recorded as Maidaini	Residential houses of petitioners are situated on land under their occupation as tenants. Although mutation under section 4 is attested but mutation under section 8 not attested yet.
10	Nazir Ahmed Wani	S/o Rehmati	Panch	399 Min	01	03	Land under survey No. 399 Min is Abi awal.	
11	Gh Nabi Dar	Ab Gani Dar	Nil	185,495, 497 & 263 Min	06	08	Land under survey Nos. 185, 495 & 497 is recorded as Abi Awal while as land under survey No. 263 Min is Maidani.	
12	Mahda Malik	Aziz Malik	Nil					No land of the petitioner is coming under the proposed road.

Whereas, the petitioners in their statements have deposed that the proposed land is for four households which clearly indicate that the land is for public purpose and the details given in the above table clearly indicates that the land under acquisition is not primarily a source of income for these petitioners; and

Whereas, on the basis of the above examination, after due consideration the objections filed by the interested persons (petitioners) as required under section 5-A of the Land Acquisition Act, Svt., 1990 are found to be devoid of any merits and accordingly rejected; and

Whereas, the Government is satisfied that the aforementioned land is required for public purpose viz. for construction of road from main road Berigam to Gundipora by PWD (R&B) Division Qazigund; and

Whereas, the instant acquisition is already initiated under the J&K Land Acquisition Act, and in view of the advice of the department of Law, the acquisition proceedings are to be completed under the provisions of the said Act; and

Now therefore, in pursuance of section 6 of the J&K Land Acquisition Act, Samvat 1990, it is declared that the land measuring 01 Kanal 05 Marla & 07 Sirsai under Khasra No. 263 min (16 Marla) & 266 min (09 Marla - 07 Sarsai) situated at village Berigam, Tehsil Devsar, District Kulgam is required for public purpose viz. for construction of road from main road Berigam to Gundipora. Further, the Collector Land Acquisition (ACR), Kulgam is directed under section 7 of the said Act to take orders for acquisition of the said land after giving prescribed notice to the interested person (s) as required under section 9 of the Land Acquisition Act/rules.



However, the Collector concerned shall be held specifically responsible for identification and proper title verification of all types of lands involved in the case for making apportionment of compensation amongst all the interested persons/ rightful claimants, in accordance with the relevant laws/ rules in force, while making the award.

Sd/-

(Vijay Kumar Bidhuri)IAS

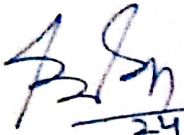
Commissioner/ Secretary to the Government

No.Rev-LAK/5/2022 (121143)

Dated: 24.01.2022

Copy to the:-

1. Financial Commissioner (Revenue), J&K, Jammu.
2. Divisional Commissioner, Kashmir.
3. Deputy Commissioner, Kulgam.
4. Collector Land-Acquisition (ACR), Kulgam. He is advised to follow all provisions of the Land Acquisition Act, Agrarian Reforms Act and/or any other law governing the subject matter, while making apportionment of compensation in favour of the rightful claimants.
5. General Manager, Government Press, Jammu/Srinagar for publication in the next issue of Government Gazette with five copies to the Revenue Department, Civil Secretariat.
6. Incharge Website, Revenue Department.
7. Notification file.
8. Stock File.


24/01/2022
(Surjeet Singh)

Under Secretary to the Government