

Dharam Paul and ors. Vs. State of J and K and Twenty Three ors.

Dharam Paul and ors. Vs. State of J and K and Twenty Three ors.

SooperKanoon Citation : sooperkanoon.com/900455

Court : Jammu and Kashmir

Decided On : Feb-23-2004

Reported in : AIR2004J& K129,2004(2)JKJ446

Judge : V.K. Jhanji and; S.K. Gupta, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : LPA (OW) No. 229/1998

Appellant : Dharam Paul and ors.

Respondent : State of J and K and Twenty Three ors.

Advocate for Def. : A.H. Qazi, AAG,; Sunil Sethi,; V.R. Wazir and;

Advocate for Pet/Ap. : G.R. Asghar, Adv.

Disposition : Appeal dismissed

Judgement :

S.K. Gupta, J.

1. This Letters Patent Appeal is directed against the judgment and order dated 13-07-1998 propounded by the learned Single Judge in OWP No. 383/1997, entitled Dharma Pal and Anr. v. the J&K; State and Ors., whereby the writ petition has been held to be without merit and dismissed.

2. The appellants/writ petitioners asserted their claim on the land in dispute covered by survey Nos. 224, 225 and 226 located at Benihal Cart, Road, Dogra Hall, Jammu, on the basis of long possession. The appellants also claimed compensation in respect of a part of the land, possession of which has been taken by the Government, in invoking the provisions of Jammu and Kashmir Land Acquisition Act.

3. It is not in dispute that the land belongs to the State. The provisions of the Land Acquisition Act can be resorted to only when the ownership of a private individual has been extinguished by taking possession of land by the Government. In case of State land, a citizen acquires ownership right only after having been remained in continuous and uninterrupted possession for a space of 60 years. The writ petitioners, having to be in an unauthorized occupation of the land in dispute, do not acquire any right to be protected under any provisions of law. The petitioners having since been dispossessed of the land in dispute, no legal right or title has accrued to them, enforceable in exercise of powers of writ jurisdiction. It is also not in dispute that the appellants/writ petitioners are out of possession. Without any legal title to the land in dispute, its possession cannot be restored to them, which otherwise would amount to enforcing a right not founded on any title. In this backdrop, the petitioners being in unauthorized occupation of land in dispute, from which they have already been dispossessed, do not have any legal right enforceable in writ jurisdiction. The view expressed by the learned Single Judge, in our opinion, is a view to which no exception can be taken.

4. In the above view of the matter, we do not find any merit in this appeal and is, accordingly, dismissed.