

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 65/2016
In
CPLA No. 68/2014.**

Ehsan Ali & others

Petitioners.

Versus

Government of Pakistan & others

Respondents.

PRESENT:-

1. Mr. Johar Ali Advocate alongwith Mr. Sharif Ahmed Advocate and Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Deputy Attorney General for Pakistan at Gilgit for Federal Government.
3. The Advocate General Gilgit-Baltistan for Provincial Government.
4. Mr. Muhammad Riaz Advocate for FCNA.

DATE OF HEARING: - 27.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has arisen out of the impugned judgment dated 15.05.2013 passed by the learned Chief Court whereby the Writ Petition No. 13/2003 filed by the petitioners was dismissed being not maintainable, hence, this petition for leave to appeal. This court vide order dated 23.10.2014 granted leave to appeal and the case is heard today.

2. Briefly, the facts of the case are that the petitioners filed Writ Petition No. 13/2003 in the learned Chief Court contending that the acquired land in question was Khalisa Sarkar. The petitioners in collusion and connivance with the Revenue Officials transferred the land in 1979, Khasra numbers 13, 526, 840, 841,

12 and 17, situated at Jutial Gilgit in their name and got illegally the compensation thereto. The Provincial Government reserves its legal rights to get refund the said amount from the petitioners. The Deputy Commissioner passed an illegal order of compensation on a letter bearing No. DK-16/GLT/443-44/86 dated 29.07.1986 amounting to Rs. 40, 95,035/- (forty lac ninety five thousand and thirty five rupees only). Per petitioners, the respondent No. 01 to 04 on one or other pretext did not pay the said amount of compensation despite their persistent demand. The petitioners being disappointed approached the office of the Federal Ombudsman at Islamabad. The office of the Ombudsman directed the respondents for payment of the awarded amount which was paid after delay of 21 years without including 08 % compound interest as provided under Section 34 of The Land Acquisition Act, 1894. The petitioners being aggrieved filed Writ Petition which upon hearing was dismissed being not maintainable.

3. The learned counsel for the petitioners submit that the petitioners are the exclusive owners of the land measuring 180 Kanal and 12 Marla, situated at Mouza Jutial, reportedly within the commercial area of Jutial, Gilgit. The said land was acquired by the respondents in the year 1979 out of which, the land measuring 136 Kanal and 16 Marla belong to the petitioners. The compensation of the aforesaid acquired land was prepared on 29.07.1986. The award was calculated amounting to Rs. 40, 95,035/- (forty lac ninety five thousand and thirty five rupees only) and the papers

with regard to the acquisition of the aforesaid land were prepared but the petitioners agitated that they were also entitled to receive 08% compound interest which was not paid to the petitioners despite their best efforts as the petitioners were entitled under Section 34 of The Land Acquisition Act, 1894. Per learned counsel, the petitioners being aggrieved made an application before the Land Acquisition Collector, Gilgit for the payment of 08% compound interest. The said application was dismissed being time barred. The petitioners were left with no other alternate except to file Writ Petition before the learned Chief Court which upon hearing was also dismissed vide impugned judgment dated 08.05.2013. He prays that the impugned judgment may graciously be set aside and the compound interest @ 08 may graciously be ordered to be paid to the petitioners as prayed for.

4. On the other hand, the learned Advocate General Gilgit-Baltistan & the learned Deputy Attorney General for Pakistan at Gilgit appearing on behalf of the official respondents submit that the acquired land was a Khalisa Sarkar. The petitioners in collusion and connivance with Revenue Officials and the then Deputy Commissioner obtained compensation illegally on an application as no case under the Land Acquisition Act was ever filed by them. In case this matter is taken up as it is as a gossipy truth, they support the impugned judgment. They reiterate that the alleged letter bearing No. DK-16/GLT/443-44/86 dated 29.07.1986 was not an award rather it was a note from the office of the Deputy

Commissioner Gilgit. Per learned counsels, no formal award was ever prepared in the light of proceedings under The Arbitration Act. The compound interest on the received amount was an illegal compensation which cannot be claimed by the petitioners. The compensation amount without an award was illegal in the eyes of law which was taken from Government Treasury and the same is refundable from the petitioners. The order of Federal Ombudsman, if any, is not a Judicial Order, hence, not maintainable in law. They submit that the learned Chief Court has rightly dismissed the Writ Petition of the petitioners being not maintainable. They pray that this petition be dismissed and the petitioners be directed to refund the amount of compensation illegally taken from the Government exchequer.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and the gone through the impugned judgment passed by the learned Chief Court. Admittedly, no award was passed by any competent authority/Court of law. The petitioners have been illegally paid compensation in violation of the provisions of The Land Acquisition Act, 1984 on the basis of a letter bearing No. DK-16/GLT/443-44/86 dated 29.07.1986. The order passed by the learned Federal Ombudsman was not a judicial order and the compensation was paid to the petitioners is not sustainable which has been obtained through fraud and misrepresentation on a letter issued by the then

Deputy Commissioner. Both the orders passed by the then Deputy Commissioner and the Federal Ombudsman are not tenable in law.

6. In view of the above discussions, we dismiss this appeal. Consequently, the impugned judgment dated 15.05.2013 passed by the learned Chief Court is affirmed. The official respondents may approach to the competent forum/Court of law for the refund of the said amount with interest from the petitioners, if they so advised.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.