

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

Subject: De-notification of land measuring 09 Kanal 01 Marla bearing Kh. No. 489 situated in village Shahdera Sharief, Tehsil Thannamandi, District Rajouri.

**De-notification No. 32 - Rev (LAJ) of 2022
Dated: 29.06.2022**

Whereas, an area of land measuring 284 Kanal and 16 Marla was acquired for expansion and beautification of the Ziarat Shadrah Sharief Rajouri which also include land measuring 09 Kanal 01 Marla under Khasra No, 489; and

Whereas, Financial Commissioner (Revenue), J&K vide No. FC-LS/LA-4331/Raj/2013 dated 17.03.2015 submitted the case to this department for de-notification of aforementioned land duly recommended by the Deputy Commissioner, Rajouri vide letter No. AC/LA/368-69 dated 14.07.2014 and endorsed by the Divisional Commissioner, Jammu vide No. 502/2280/Shahdra/Sharief/Raj/14/934-36 dated 05.08.2014; and

Whereas, vide this department's letter No. Rev/LAJ/14/2015 dated 27.05.2015, & 05.03.2020, Special Officer Auqaf, J&K, Srinagar and Administrator, Ziarat Sharief Shahdara, Rajouri were requested to furnish their comments/views. Special Officer Auqaf, J&K vide No. SOA/Rev/16/2015/218-21 dated 23.05.2019 has informed that land measuring 09 Kanal 01 Marla comprising Khasra No. 489 has not been notified as Auqaf Property under the provision of Waqf Act, 2001 and deserves to be de-notified; and

Special Officer Auqaf, J&K vide No. SOA/Rev/16/2015/897 dated 11.03.2020 has endorsed the comments of Administrator Auqaf Islamia Shadhara Sharief Rajouri, which are as under:

"The Auqaf organization was required to acquire 284 Kanal and 16 Marla of land for the expansion and beautification of the Ziarat Shadrah Sharief Rajouri in which the land measuring 09 Kanal 01 Marla given in exchange to the applicant had again come under acquisition. Accordingly the matter was taken up with the Collector Land Acquisition, Rajouri on the recommendations of Administrator Auqaf Islamia Shahdara Sharief Rajouri, which reveals that the applicants are in a peaceful possession of the land measuring 09 Kanal 01 Marla to be de-notified on the basis of exchange agreement. Further, from the perusal of records the land in question has not been notified as Wakaf property under the provisions of Act."

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Whereas, the matter was examined in the department and vide letter No. Rev/LA/14/2015 dated 29.10.2020, Deputy Commissioner, Rajouri was again requested to furnish the fresh recommendations/comments through proper channel; and

Whereas, Deputy Commissioner, Rajouri vide his letter No. AC/LA/500 dated 17.03.2021 re-submitted the case to Divisional Commissioner, Jammu, who vide No. 502/2280/Shahdera Sharief/Rajouri/21/623 dated 17.07.2021 submitted the same to Financial Commissioner (Revenue), J&K, who further endorsed to the this Department vide No. FC-LS/LA-4331/2013 dated 05.08.2021. The comments are as under:

"In the year 2014, instant case was recommended through proper channel for de-notification vide his office No. AC/LA/368-69 dated 14.07.2014 followed by letter No. AC/LA/677-78 dated 15.01.2015. Further, submitted that indenting department (Administrator Auqaf Shahdara Sharief Rajouri) vide letter No. 979/ASH-14 dated 11.01.2014 placed request for de-notification of the subject land on the grounds that the land measuring 13 Kanal 15 Marla comprising Khasra No. 534, 531, 535 was acquired for construction of Guest House and the land measuring 23 Kanal 11 Marla under Khasra No. 489, 490, 491, 492, 493, 494 and 495 belonging to Diljeet Singh and others was given to the applicants in exchange of their ownership land for rehabilitation of Diljeet Singh and others whose land was given to the applicants Mohd. Akbar and others were paid the cost of land including the cost of trees amounting to Rs. 2,21,496/-.

Moreover, during the year February 2011, the additional land measuring 27 Kanal 03 Marla was acquired by the Auqaf Organization for expansion and beautification of Ziarat Shahdera Sharief vide final award No. AC/LA/348-49 dated 05.07.2011 including the land measuring 09 Kanal 01 Marla under Kh. No. 489 which was earlier given to the applicants Mohd Akbar and others for rehabilitation purpose. On the request of applicants Mohd Akbar and others and report submitted by the indenting Department (Administrator Auqaf Shahdara Sharief, Rajouri) vide letter No. 979/SHA-14 dated 11.01.2014, the case of applicants was recommended to the Government through worthy Divisional Commissioner, Jammu vide letter No. AC/LA/368-69 dated 14.07.2014 read with letter No. AC/LA.677-78 dated 15.01.2015 for de-notification of land measuring 09 Kanal 01 Marla under Khasra No. 489 but neither de-notification order nor any other communication in the matter is received back so far."

Whereas, the case was further examined in the department and vide letter dated 15.11.2021, Deputy Commissioner, Rajouri was once again requested to clarify as to whether the possession of the land in question is with the department and whether or not compensation was deposited for disbursement to the claimants and copy was



endorsed to the Special Officer Auqaf, J&K with the request to clarify whether the land is required for the purpose for which it was acquired; and

Whereas, Deputy Commissioner, Rajouri vide No. AC/LA/468-69 dated 14.01.2022 has reported that matter was sought from Administrator Auqaf Shahdara Sharief, Rajouri who in turn vide his letter No. 867/SHA-21 dated 25.12.2021, intimated that possession of the land in question has not been taken over by the Indenting Department (Administrator Auqaf Shahdara Sharief) and said land is still in the possession of Mohd Akber and others (applicants). Further, the amount of compensation of the said land has been deposited by the Indenting Department with the Collector Land Acquisition Rajouri vide cheque No. 317295 dated 01.04.2005, which has not been disbursed as the land owners are not willing to part their acquired land and refused to receive the compensation; and

Whereas, Special Officer Auqaf, vide No. SOA/Rev/16/2015/894 dated 25.11.2021 intimated that the Auqaf organization was required to acquire 284 Kanal 16 Marla land for the expansion and beautification of the ziarat Shadrah Sharief Rajouri in which the land measuring 09 Kanal 01 Marla given in exchange to the applicant had again came under acquisition; and

Whereas, Special Officer Auqaf further intimated that the Administrator concerned stated that the applicants are in a peaceful possession of the subject land and also reported that after having examined the whole issue deftly the subject land measuring 09 Kanal 01 Marla under Khasra No. 489 has not been notified as Wakf property and deserves to be de-notified on the basis of exchange agreement and as per spot possession; and

Whereas, land was acquired under the Land Acquisition Act, Svt. 1990, which has been repealed in terms of J&K Re-organization Act, 2019, and matter was referred to Department of Law, Justice & Parliamentary Affairs for advice/opinion, who vide U.O. No. Law-Opn2/48/2022-10 dated 19.04.2022 advises as under:

"In terms of Clause (14) of Jammu and Kashmir Re-organization (Removal of Difficulties) Order, 2019, anything done or any action taken under any law (repealed now) shall be deemed to have been done or taken under the corresponding provisions of the Central Laws now extended and applicable to the Union Territory of Jammu and Kashmir. Thus the acquisition proceedings initiated under the Jammu and Kashmir Land Acquisition Act, Svt. 1990 (repealed Act) shall be deemed to have been initiated under the corresponding provision of the Central Laws i.e. "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013". Therefore, department is advised that any new action including withdrawal/de-notifying land in question may be taken under Section 93 of the Central Act, 2013."



Whereas, Section 93 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 provides that:

"Completion of acquisition not compulsory, but compensation to be awarded when not completed.

(1) The appropriate Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the appropriate Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land"

Whereas, the matter has been examined in light of the advice tendered by the Department of Law, Justice & Parliamentary Affairs and it has been found expedient to de-notify land measuring 09 Kanal 01 Marla bearing Kh. No. 489 situated in village Shahdera Sharief, Tehsil Thannamandi, District Rajouri, in view of the fact that the possession of the land has not been taken by indenting department/organization; and

Whereas, the matter was came in discussion in the Waqf Board meeting held on 26.05.2022, and Chairperson Waqf Board has desired that she will visit the site on 05.05.2022 to inspect the site and thereafter convey to Government; and

Whereas, vide letter No.REV-LAJ/73/2021 (52258) dated: 21.06.2022, Chief Executive Officer, J&K Waqf Board has been requested to furnish the concurrence/comments of J&K Waqf Board for de-notification of land measuring 09 Kanal 01 Marla under Khasra No.489 situated at Village Shahdera Sharief, Tehsil Thannamandi, District Rajouri; and

Whereas, Chief Executive Officer, J&K Waqf Board vide No.JKWB/CEO/2022/18 dated 23.06.2022 has conveyed the authorization of J&K Waqf Board for de-notification of land measuring 09 Kanal 01 Marla under Khasra No.489 situated at Village Shahdera Sharief, Tehsil Thannamandi, District Rajouri.

Now, therefore, in terms of sub-section (1) of Section 93 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, land measuring 09 Kanal 01 Marla bearing Kh. No. 489 situated in village Shahdera Sharief, Tehsil Thannamandi, District Rajouri, shall and shall always be deemed to have been de-notified from the acquisition proceedings/award issued by the Collector Land Acquisition (ACR), Rajouri, subject to the condition that;



- a. The Deputy Commissioner and Collector Land Acquisition concerned shall ensure that the possession of the said land has not been taken by the indenting department/agency and the land was/is still in the continued physical possession of the land owner(s).
- b. The compensation of the said land has not been paid to the rightful claimants and if any compensation received by the land owner(s) in respect of the said land shall be recovered back before effecting necessary changes in the revenue records in pursuance of the proposed de-notification.
- c. The Deputy Commissioner/Collector Land Acquisition shall ensure that the said land has not been proposed for any other acquisition/public purpose or is likely to be required.
- d. The proposed de-notification shall be without prejudice to the outcome of the writ petition(s), if any, pending consideration before the Competent Court(s).

Sd/-

(Vijay Kumar Bidhuri) IAS

Commissioner/Secretary to the Government

No. Rev-LAJ/73/2021 (52258)

Dated: 29.06.2022

Copy to the:-

1. Financial Commissioner, (Revenue), J&K.
2. Divisional Commissioner, Jammu.
3. Deputy Commissioner, Rajouri.
4. Collector Land Acquisition (ACR), Rajouri to make necessary entries of de-notification in the relevant revenue records.
5. General Manager, Government Press, Jammu for publication in the next issue of Government Gazette.
6. Private Secretary to Commissioner/Secretary to Government, Revenue Department.
7. Concerned land owners (s).
8. I/C Website Revenue Department with the advice to upload the notification on Website.
9. Notification file.
10. Stock file (w.2.s.c).

Muzammil Hassan Choudhary
29/06/22

Under Secretary to the Government