

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
[Appellate Jurisdiction]

**PRESENT:**

**Ghulam Mustafa Mughal, J.**

Civil PLA No.237 of 2020  
(Filed on 29.10.2020)

WAPDA through Director Legal WAPDA, WAPDA House Lahore.

.....PETITIONER

**VERSUS**

1. Community through Khadim Hussain s/o Qutab Din, r/o Dhok Moura Qadir, Kalyal Bainsi, Tehsil and District Mirpur, Azad Jammu & Kashmir.
2. Collector Land Acquisition, Mangla Dam Raising Project, Mirpur.
3. Fazal Ellahi s/o Muhammad Lal,
4. Sahib Dad s/o Sardar Khan, r/o Kalyal Bainsi, Tehsil and District Mirpur, Azad Kashmir.

.....RESPONDENTS

[On appeal from the judgment and decree of the High Court dated 09.03.2020, in Civil Appeals No.158 and 165 of 2014]

FOR THE PETITIONER: Ch. Liaqat Afzal,  
Advocate.

FOR THE RESPONDETS: Mr. Taimoor Ali Khan,  
Advocate.

Date of hearing: 25.11.2020

**ORDER:**

**Ghulam Mustafa Mughal, J.**– The captioned petition for leave to appeal has been filed against the judgment and decree dated 09.03.2020, passed by the Azad Jammu & Kashmir High Court in Civil Appeals No.158 and 165 of 2014.

2. The facts forming the background of the captioned petition for leave to appeal are that the Collector Land Acquisition, Mangla Dam Raising Project, acquired the Culverts bearing code No.I-280A, situated at Mozia Kalyal Bainsi, Tehsil and District Mirpur, for upraising of Mangla Dam, vide award No.1743/2012, issued on 04.09.2012. The Collector determined and fixed the price of the Culverts as Rs.11,11,531/-. Feeling aggrieved from determination and fixation of the compensation by the Collector, the respondents, herein, filed a reference application under section 18 of the Land Acquisition Act, 1894, before the learned Reference Judge Mangla Dam Raising Project on 24.04.2013, and prayed for enhancement of the compensation. It was averred that the determination of

the compensation was made in the year 2006, whereas, the award has been issued in 2012, and during the intervening period the prices of the building materials have increased four times but the Collector without considering this aspect of the matter has fixed a meagre amount of compensation which may be enhanced to the tune of Rs.1,20,00,000/- besides 15% compulsory acquisition charges. The reference was contested by respondent No.1, therein, by filing objections whereby the claim of the applicants, therein, was refuted and it was stated that the reference application is liable to be dismissed on the ground of limitation. The learned Reference Judge framed issues in light of the pleadings of the parties and asked them to lead evidence in support of their respective stand. At the conclusion of the proceedings the learned Reference Judge vide judgment and decree dated 24.06.2014, accepted the reference and enhanced the compensation from Rs.11,11,531/- to Rs.29,76,000/- besides 15% compulsory acquisition charges. Both the parties felt dissatisfied from the

judgment and decree dated 24.06.2014, recorded by the learned Reference Judge and challenged the same before the Azad Jammu & Kashmir High Court through separate appeals. The learned High Court after hearing the parties through the impugned consolidated judgment and decree dated 09.03.2020, has dismissed the appeals.

3. Mr. Taimoor Ali Khan, the learned Advocate for the respondents raised a preliminary objection regarding maintainability of the PLA on the ground of limitation and submitted that the impugned judgment of the learned High Court was announced on 09.03.2020, whereas, the PLA has been filed on 29.10.2020, hence, is hopelessly time barred. He added that no plausible explanation is offered for the delay, therefore, the PLA is liable to be dismissed on this sole ground. The learned Advocate while placing reliance on the case titled *WAPDA & others vs. Muhammad Afzal Khan & others* (Civil Appeal No.163 of 2020, decided on 20.10.2020), submitted that in the similar case the PLA has been dismissed by this Court on the ground of limitation.

4. Ch. Liaqat Afzal, the learned Advocate appearing for the petitioner, while meeting the objection, submitted that the impugned judgment was not communicated to the petitioner and the petitioner came to know about the dismissal of the appeal by the learned High Court from the letter of the Collector dated 14.09.2020. The learned Advocate further argued that thereafter the certified copies were obtained and the PLA was filed without any delay. On merits, the learned Advocate argued that the reference was not maintainable on the ground that the same was not filed by two persons representing the community after obtaining the permission of the learned Advocate-General which was the requirement of the relevant law. The learned Advocate submitted that the reference application was even otherwise time barred and the learned Collector has made the enhancement on the basis of the report of a private person which was not tenable under law. In support of his submissions, the learned Advocate has placed reliance on the cases reported as [1992 SCR 286],

[2000 SCR 78], [2004 SCR 23], [2004 SCR 435], [2004 SCR 401], [2013 SCR 365] and [2013 SCR 405].

5. I have heard the learned counsel for the parties and have perused the record appended with the petition. A perusal of the record reveals that the parties, herein, filed separate appeals before the learned High Court against the judgment of the learned Reference Judge dated 24.04.2016. Both the appeals were consolidated by the learned High Court and decided the same through the impugned consolidated judgment which was announced on 09.03.2020. The reason listed by the learned counsel for the petitioner that the petitioner has no knowledge about the decision of the learned High Court, in view of the aforesaid position, is not worth consideration. The record further reveals that notice of additional amount was issued to the petitioner, herein, on 14.09.2020, but even then the PLA has been filed before this Court on 29.10.2020 and the intervening period has not been properly explained.

As the petitioner, herein, failed to offer a plausible explanation for such an inordinate delay in filing the PLA, therefore, the same stands dismissed for having been filed beyond the prescribed period of limitation. No order as to costs.

**JUDGE**

Mirpur  
25.11.2020