

HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU

OWP No. 1626/2011  
CMA Nos. 752/2012, 2402/2011, 2259/2011 & 877/2012

Date of decision: 30.05.2012

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Dharuv Singh through his legal representatives.	V.	State of J&K & ors.
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**CORAM:**

**Mr. JUSTICE J.P. SINGH.**

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**Appearing Counsel:**

For Petitioner(s) : Mr. Vikas Mangotra, Advocate.

For Respondent(s) : Mr. A.H.Qazi, AAG.  
M/S S.K.Shukla & R.S.Pathania, Advocates.

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**JUDGMENT**

The petitioners' predecessor-in-interest Mr. Dharuv Singh filed this Writ Petition questioning District Magistrate, Kathua's order No.DCK/YC/IH2/1282 dated 08.12.2011 whereby directions were issued to the Executive Officer, Municipal Committee, Kathua to demolish the illegal structure raised by him on the Nazool land, after due verification thereof from the Revenue Records, acting on the Report of the Demarcation Committee constituted for the purpose which after conducting the spot inspection, found Dhrub Singh to have encroached upon two marlas of Nazool land.

The grievance projected by him in the Writ Petition is that the Demarcation Committee had acted illegally in taking the view that he had encroached upon the Nazool land and

that too without affording him any opportunity of hearing in the matter.

Dharuv Singh's Claim in the Writ Petition that he had not encroached upon any Nazool land is contested by the State-respondents saying that Dharuv Singh's land had come under acquisition and in lieu thereof he was allotted three marlas of land out of which he had sold 02 marlas of land to Sukhdev Singh and Subash Chander and this way only 01 marla of land had remained with him; despite sale of 02 marlas of land he was still found in possession of 03 marlas of Nazool land. The Report of the Demarcation Committee prepared by the Revenue Officers along with the Site Plan indicating Dharuv Singh's encroachment upon Nazool land has been placed on records.

Considered the submissions of learned counsel for the parties made at the Bar.

Dharuv Singh's claim that he had not encroached upon the Nazool land and had raised construction on the land which was owned by him, is purely factual in nature which cannot be adjudicated upon by this Court in exercise of its Extra Ordinary Writ Jurisdiction.

The petitioners, if aggrieved by the Demarcation conducted by the Revenue Officers indicating Dharuv Singh to have encroached upon the Nazool land, can have resort to the remedies available to them before the higher Revenue Authorities.

This Apart, the District Magistrate, Kathua's order directing the Executive Officer Municipal Committee,

Kathua to proceed for demolition of illegal construction after verification of the revenue records, does not in any way adversely affect the petitioners' rights, if any, for, the action which the Executive Officer is required to initiate for demolition of the construction raised on the Nazool land, is to be so taken after he was satisfied on the basis of the Records that the construction has been raised on the Nazool land.

The alternative remedy of Appeal(s) before the higher Revenue Forums being available to the petitioners to question the Demarcation Committee's Report, no interference with the order passed by the District Magistrate, Kathua may, therefore, be warranted in the circumstances.

This Writ Petition is, therefore, *dismissed lifting* interim order dated 09.12.2011.

( J. P. Singh )  
Judge

Jammu:  
30.05.2012  
*Vinod.*