

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) No. 297/2023
CrlM No. 743/2023

Mohi-ud-Din Ganie and Ors.

..... Appellant/petitioner(s)

Through: -
Mr. Saqib Amin Pararray, Advocate
V/s

UT of J&K and Ors.

..... Respondent(s)

Through: -

CORAM:

HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

(ORDER)

26.06.2023

Petitioners, residents of Ganai Mohalla, Lalpora, had approached the respondent No. 3, with an application in terms of Section 133 Cr.PC, on the ground that some villagers namely Abdul Rashid Khan S/o Habib Khan, Mohammad Amin Rather S/o Ghulam Rasool Rather, Mushtaq Ahmad Kumar S/o Wahab Kumar and Ghulam Qadir Kumar S/o Saboor Kumar residents of Lalpora Tral, District Pulwama, have encroached upon pathway, the only access to the residences of the petitioners. It is stated that in terms of the powers vested with the competent authority under Section 133 Cr.PC, proceedings were initiated against the said encroachers and detailed report was sought from the concerned Subordinate Agencies.

In pursuance to the directions, a detailed enquiry report was submitted after conclusion of on-spot verification of the pathway in accordance with the entries in the revenue records. It is also stated that the encroachers were time and again requested by the petitioners to restore the pathway in accordance with the entries in the revenue records, but the encroachers remained adamant to block the pathway, leading to the properties of the petitioners. The team of revenue officials was constituted by respondent No. 3, vide order dated 05.05.2022 to demarcate the pathway recorded as "Gair Mumkin Sadak" falling under survey number 1090 situated at Estate Lalpora Tral. The respondent No. 3, after receiving the report submitted by the Subordinate Revenue Agencies along with a report of demarcation conducted by the team

constituted on 05.05.2022, passed an order dated 03.10.2022, whereby the encroachers were directed to remove the illegal encroachment within a period of 15 days.

It is further stated that aggrieved of the order dated 03.10.2022, the encroachers approached this Court vide Criminal revision bearing CrIR No. 33 of 2022, but the same was dismissed on 21.02.2023, and order dated 03.10.2022 was upheld. It is stated that despite dismissal of the revision, the respondents have failed to take any action in terms of order dated 03.10.2022. The limited prayer made by the petitioners in the instant petition is to direct respondent No. 3, to implement the order dated 03.10.2022, thereby removing the illegal encroachment made by few villagers on the properties of the petitioners.

Learned counsel for the petitioners submits that he would feel satisfied if the instant writ petition is disposed of with a direction to respondent No.3 to consider the claim of the petitioners, taking into account order passed by the respondents on 03.10.2022. His statement is taken on record.

In view of above, the instant petition is disposed of with a direction to the respondent No.3, to consider the claim of the petitioners for removal of encroachment made by villagers namely Abdul Rashid Khan S/o Habib Khan, Mohammad Amin Rather S/o Ghulam Rasool Rather, Mushtaq Ahmad Kumar S/o Wahab Kumar and Ghulam Qadir Kumar S/o Saboor Kumar residents of Lalpora Tral, District Pulwama, on the properties of the petitioners, taking into account order passed by the respondents on 03.10.2022, within a period of four weeks from the date, the copy of the order along with copy of the writ petition is served upon the respondents. The respondents are also directed to pass speaking order.

Disposed of along with connected CrIM(s).

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR
26.06.2023
"Mohammad Yasin Dar"