

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

Case:- WP(C) No. 91/2023  
CM No. 203/2023

1. Bansilal, age 65 years,
2. Mohan Lal, age 58 years,
3. Ashok Kumar, Age 49 years, all Ss/o Jagat Ram,
4. Santosh Kumar, age 52 years, W/o Late Soba Ram,  
All R/o Chowki Choura, Tehsil Chowki Choura, .....Petitioner(s)  
District Jammu.

Through: None

**Vs**

1. UT of J&K through its Commissioner/Secretary,  
Department of Revenue, Civil Secretariat, Jammu.
2. Collector Deputy Commissioner, Jammu.
3. Tehsildar, Chowki Choura, District Jammu. .... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

**Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE**

**ORDER**  
**(28.02.2025)**

**01.** The petitioners through the medium of instant petition have sought the following reliefs.

- i) **Certiorari:** Qashing the Order No. DCJ/SQ/Illegal entries-SL/2020-21/803-07 dated 07.08.2020 issued by the respondents 2 & 3 qua the petitioners by virtue of which respondents 2&3 have deleted/cancelled/expunged the Girdawari entries of the petitioners from land falling under Khasra No. 967 min measuring 18 Kanal 03 Marlas situated at Chowki Choura, Tehsil Chowki Choura District Jammu, illegally, arbitrarily, without application of mind and also without affording any opportunity of being heard and also against the Government decision

governing the field.

- ii) **Mandamus**: Directing the respondents to attest/enter the Girdawari of the above said land in favour of the petitioners on the ground that the land is a Shamlat Deh land and the petitioners are Maroosi i.e occupancy tenants & possession of the said land from the last more than sixty two years.
- iii) Further directing the respondents not to dispossess the petitioners from the above said land.

**02.** The case, as projected in the instant petition, is that the petitioners are occupancy tenants over the Shamlat Deh land falling under Khasra No. 967 min measuring 18 Kanals 03Marlas situated at Chowki Choura, Tehsil Chowki Choura, District Jammu and are in possession of the above said land from the last more than 62 years, as their possession on the land in question is also reflected in the revenue records i.e kharief 1960. Further pleaded that as per the copy of Khasra Girdawari Kharief 1971, father of the petitioners, namely, Jagat Ram was shown as cultivator and he has paid the lagan, but the revenue authorities have changed the kind/nomenclature of land from Shamlat Deh land to State land.

**03.** It is further pleaded that the petitioners belong to Schedule Caste /Marginalized community having no land and are totally dependent on the land for their survival/source of income. Moreover they are not unauthorized occupants/encroachers of the land rather they are occupancy tenant/Maroosi of the Shamlat Deh land. The respondents 2 and 3 issued Order No. DCJ/SQ/Illegal entries-SL/2020-21/803-07 dated 07.08.2020, by virtue of which the Girdawari entries qua the petitioners from the land in

question have been deleted/cancelled without granting any opportunity of being heard to the petitioners.

**04.** Feeling aggrieved of the impugned order, the petitioners have challenged the same by way of the instant petition on the following grounds:

- a) That the order impugned is arbitrary, illegal and has been passed at the back of the petitioners without providing any opportunity of being heard to the petitioners, as such, the same required to be quashed/set aside.
- b) That perusal of the impugned order shows that the Deputy Commissioner/Collector, Jammu has passed the impugned order by citing directions issued by the J&K Revenue Department and Financial Commissioner Revenue for eviction of illegal occupants of State subject from the unrecognized occupants of illegal encroachers, however, the petitioners are neither unrecognized occupants nor illegal encroachers and have been recorded as Maroosi by paying rent at the village rate i.e Hast Parta Deh Lagan Nakdi to the State Government through Revenue Department as such order impugned passed by respondent No.2 is without application of mind, perse illegal and has been passed on wrong observations, as such, the same is required to be quashed.
- c) That the petitioners came into possession of the land in question on 26.02.1960 and are in possession for more than thirty years on 26.02.1990, as such, the land of limitation terminates the right of J&K Government to proceed against the petitioners for their eviction, as such, the order passed by the respondent No.2 is not sustainable in the eyes of law and is required to be quashed.

- 05.** Response stands filed on behalf of respondent No.2, in which a specific stand has been taken that as per the report of field staff, the land falling under Khasra No. 967 of Village Choura measuring 21 Kanal is Gair Mumkin Parat in Khara Malakit Shamlat Deh Hisab Rasad Khewat and in Khana Kasht Makbooza Malakan. As per the Mutation No. 262, Khasra No. 1220/967 measuring 18 Kanal 03 Marlas recorded as State land under Big Landed Estates Abolition Act. As per Mutation No. 115 the land falling under Khasra No. 967 measuring 02 Kanal 14 Marlas recorded as Mehkama Public Work (Gair Mumkin Sadak) and remaining 03 Marlas recorded as Shamlat Deh.
- 06.** The respondents have further pleaded that as per Jamabandi 1959-60, (a) in Khana Malakit land measuring 20 Kanal 17 Marlas recorded as Sri Sarkar and 03 Marlas recorded as Shamlat Deh Hisab Rasad Khewat, (b) in Khana Kasht land measuring 02 Kanal 14 Marlas recorded as Makbooza Mehkma Public Works (Gair Mumkin Sadak) and in Khasra No. 1220/967 Dittu S/o Punjabu Chamar recorded as Gair Masoosi on 18 Kanal 03 Marlas and 03 Marla Makbooza Malkan (Gair Mumkin Sadak). In addition to this, Jamabandi 1995-96, (a) in Khana Malakit 20 Kanal 17 Marla recorded as Sri Karkar and 03 Marlas recorded as Shamlat Deh Hisab Rasad Khewat, (b) in Khana Kasht land measuring 02 Kanal 14 Marlas recorded as Makbooza Mehkma Public Works (Gair Mumkin Sadak) and in Khasra No. 1220/967 Makbooza Paras Ram is recorded as Gair Mumkin Dukan on 03 Marlas, whereas Jagat Ram S/o Pulu Chamar is recorded as Gair Maroosi on 17 Kanal 10 Marlas and Balak Ram S/o Ganga Ram Brahmin recorded

as Gair Maroosi on 10 Marlas and remaining 03 Marlas recorded as Makbooza Mehkma Public Works (Gair Mumkin Sadak).

- 07.** Thus in the light of the stand taken by the respondents in the reply affidavit, it is emphatically clear that the petitioner and his predecessor have no ownership right over the land in question, as they were recorded as illegal occupants over the said land. However, the father of the petitioner got ownership right of the land measuring 04 Kanals 05 Marlas as per the Roshni Act, which has since been cancelled and the land has been accordingly restored to the State Government, in the light of the order passed by the Division Bench of this Court and. Thus, according to Ms.Monika Kohli, the writ petition deserves to be dismissed as the instant petition involves disputed questions of fact which cannot be gone into while exercising the writ jurisdiction under Article 226 of the Constitution. She further submits that the petitioner instead of availing the remedy provided before the Revenue Authority under the Statute, have chosen to file the instant petition on false and frivolous grounds and accordingly, the writ petition deserves dismissal.
- 08.** Heard learned counsel for the respondents at length and perused the record.
- 09.** In the light of the stand taken by the respondents that the instant petition involves disputed questions of fact which cannot be gone into while exercising the writ jurisdiction under Article 226 of the Constitution and also further stand taken by the respondents to the fact that the land has been restored back to the State Government in light of the judgment passed by the Division Bench of this Court under the Roshni Act, the writ petition is

devoid of any merit deserves to be dismissed and the same is accordingly dismissed along with all connected applications.

10. Interim direction, if any, shall stand vacated.

(WASIM SADIQ NARGAL)  
JUDGE

JAMMU  
28.02.2025  
Vijay

Whether the order is speaking: Yes/No  
Whether the order is reportable: Yes/No

