

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

Case:- WP(C) No. 813/2021
CM No. 3472/2021
CM No. 4496/2022

1. **Kuldeep Singh, Age 70 years,
S/o Ashari Singh Charak,
R/o Salehar, Tehsil Bishnah, District Jammu.**
2. **Parshotam Singh, Age 48 years,
S/o Chattar Singh
R/o Salehar, Tehsil Bishnah, District Jammu.**

.....Petitioners

Through: None

Vs

1. **UT of Jammu & Kashmir
through Commissioner Secretary
Revenue Department
Civil Secretariat, Jammu/ Srinagar.**
2. **Divisional Commissioner, Jammu.**
3. **Deputy Commissioner, Jammu**
4. **Tehsildar, Bishnah.**
5. **Senior Superintendent of Police, Jammu.**

..... Respondents

Through: Ms. Nazia Fazal, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. R. S. Kotwal, Advocate

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
20.12.2023**

01. CM no. 4496/2022 has been filed by the twelve applicants who have come to be served individual notices from the Tehsildar Executive Magistrate Ist Class, Bishnah by reference to direction

given in the writ petition. The applicants in this application are not party respondents to the writ petition. The direction by reference to which the individual notices came to be issued to the applicants in May, 2022 is in the order dated 23.04.2021, whereby the Divisional Commissioner, Jammu came to be directed to file action taken report in response to the petition submitted by the nine inhabitants of village Salehar, tehsil Bishnah, two of whom are now the petitioners in the writ petition. The direction so given in the order dated 23.04.2021 came to be repeated in subsequent order dated 25.03.2022.

02. Against said two orders dated 23.04.2021 read with order dated 25.03.2022 the applicants, in CM no. 4496/2022, came to prefer a letters patent appeal LPA no. 50/2022 which came to be entertained upon grant of leave and disposed of vide an order dated 31.08.2023 thereby modifying the direction as given in order dated 23.04.2021 and the modification reads as under:-

“That the Divisional Commissioner, Jammu shall proceed to remove encroachment, if any, from the persons in settled possession including the appellants herein after following due process of law and providing adequate opportunity of being heard to the affected persons.”

03. The very fact that the direction as modified by the Division Bench by reference to order dated 23.04.2021 passed in the writ

petition has remained stand still is gatherable from the fact from the file of CM no. 4496/2022 filed by the applicants who were the appellants in the said LPA. In this application, the applicants do not say as to whether they have ever come to be served by any eviction notice from the end of the Divisional Commissioner, Jammu following the mandate given in the judgment dated 31.08.2023 in LPA no. 50/2022.

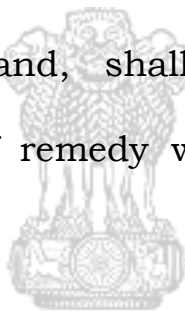
04. On the last date of hearing, there was no representation on behalf of the petitioners. Surely, the petitioners came forward with an alleged grievance that the site of the encroached land was water-pond and, therefore, in their purported status as being concerned citizens of village Salehar, tehsil Bishnah the petitioners reckoned that the alleged water body to be freed from the encroachment. Given the fact that the Division Bench came to modify the direction as given in the order dated 23.04.2021, as such, it is now only pursuant to the Division Bench's direction that the proper course of action is expected to be resorted to at the end of the Divisional Commissioner, Jammu by adopting due process of law for the purpose of seeking the vacation of the land, if any, under encroachment at the hands of the persons found to be in possession thereof.

05. Accordingly, this petition is disposed of with a direction to the Divisional Commissioner, Jammu to act as directed in terms of

order dated 31.08.2023 passed in LPA no. 50/2022. A copy of this order be forwarded to the Divisional Commissioner, Jammu for notice and compliance.

06. Nothing herein observed shall prejudice the position of the applicants in terms of their explanation or defense in answer to the process of law as may get initiated from the end of the Divisional Commissioner, Jammu for the purported purpose of getting the land in reference freed from the alleged encroachment. The applicants, in case if would feel aggrieved of any order or action at the end of the Divisional Commissioner, Jammu with respect to their removal from the alleged encroached land, shall be at liberty to pursue appropriate legal course of remedy whatsoever available at their disposal.

Disposed of.



(RAHUL BHARTI)
JUDGE

JAMMU
20.12.2023
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Whether the order is speaking : Yes / No

Whether the order is reportable : Yes/ No