

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

Case No. :- WP (C) No. 3278/2023
CM No. 7953/2023

1. **Mahan Singh, Age 65 years,
S/o Chagar Singh,
R/o village Khanna Chargal,
District Jammu;** Petitioner(s)/Appellant(s)
2. **Avtar Singh, Age 50 years,
S/o Parkash Singh,
R/o Village Khanna Chargal,
District Jammu;**
3. **Raj Singh, Age 50 years,
S/o Inder Singh,
R/o Village Mela Khanna
Chargal, District Jammu;**
4. **Krishan Singh, Age 56 years,
S/O Bajjar Singh,
R/o Village Mela Khanna
Chargal, Distt. Jammu.**

Through: Mr. Abhimanyu Sharma, Advocate.

Vs

1. **UT of J & K Th.
Commissioner/Secretary to
Govt. Forest Ecology &
Environment Department,
Govt. of J&K, Civil Secretariat,
Jammu;** Respondent(s)
2. **Principal,
Chief Conservator of Forests,
Van Bhawan Near Ghumant,
Jammu;**
3. **Chief Conservator of Forests,
Jammu;**
4. **Divisional Forest Officer,
Jammu Forest Div.**

Through: Mr. Amit Gupta, AAG.

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

ORDER

29.12.2023

1. Petitioner through the medium of instant petition seeks the following reliefs:-

- (i) ***Mandamus, commanding and directing the respondents to extend the date of submissions of application forms, i.e., Form-B for grant of permission for felling Khair trees for village Khanna Chargal, Tehsil and District Jammu;***
- (ii) ***Mandamus, commanding and directing the respondents to correct the name of village Khanna Chargal which is wrongly mentioned as Chack Chargal in Tehsil Jammu in the list of villages for the year 2023-24, issued by the Chief Conservator of Forest in pursuance to Rule 5 of SRO 111 of 2016 for felling of the khair trees;***
- (iii) ***Mandamus, commanding and directing the respondents to accept the application forms i.e. Form-B for grant of permission for felling of khair wood trees grown over the land of the petitioners;***
- (iv) ***Any other order or direction, which this Court may consider just and fair in the facts and circumstances of the case.***

2. The facts leading to the filing of instant petition are that the petitioners, who have filed this petition jointly have their ownership land in village Khanna Chargal, Tehsil Jammu, which falls under Forest Range Bahu of Jammu Forest Division, where they have grown Khair Trees on their land and the said khair trees are now causing harm to the growth of crops over the said land. It is stated that the petitioner No. 1 has the land in khasra Nos. 1072, 1161, 1162, 2094, 2097 situated at Village Khanna Chargal, Tehsil & District Jammu and the petitioner Nos. 2 to 4 also have their land in village Khanna Chargal.

3. Learned counsel for the petitioners submits that Rule 4 of the SRO 111, i.e., Jammu and Kashmir Non Forest Land Khair Trees “**Acacia Catechu**” (Management Plan) Rules, 2016 (*hereinafter referred to as the “Rules of 2016”*) provides for “*preparation and approval of a management plan*”, according to which the Division Forest Officer of the concerned area shall prepare a year wise felling programme/block for the management unit under his jurisdiction for 10 years.

4. Learned counsel has placed reliance on Rule 5 of the Rules of 2016, whereby a complete procedure is prescribed for “*accord of sanction to the felling of Khair Trees on Milkiyat land including proprietary land as well as non-forest land*”, inasmuch as, the Division Forest Officer shall submit a 10 years felling programme as drawn by him for the management unit and thereafter, the empowered officer shall accord sanction to the adoption of felling programme for each management unit after obtaining a report from the concerned territorial conservator of forest in accordance with Rule 4.

5. He further submits that as per Rule 6 of the Rules of 2016, *the concerned Division Forest Officer, on receipt of the sanction to the adoption of 10 year felling programme for management unit under his jurisdiction has to notify the village/villages having trees sanctioned for being felled during a particular year and invite applications in Form-B from the owners of the Khair Trees or any person authorized by him in this behalf.* He further submits that as per the aforesaid Rule, *after receipt of such applications, the Division Forest Officer shall refer these applications to the concerned Tehsildar and territorial range officer for Nishandehi/demarcation with reference to the relevant revenue record and the said Nishan Dehi/Demarcation shall be countersigned by the Naib Tehsildar concerned and attested by the Tehsildar concerned.*

6. Learned counsel for the petitioner submits that the respondents vide public notice and under the provisions of SRO 111 of 2016 dated 31.03.2016 issued a felling programme of Khair Trees in various divisions including Jammu Forest Division from the year 2016 to 2026 and in the said proposed 10 years felling programme of Khair

trees of Jammu Forest Division for the year 2023-24, the village namely Chack Chargal has been earmarked in Forest Range Bahu, whereas the fact remains that there is no such village by the name Chack Chargal in Forest Range Bahu having Khair Trees grown over said land.

7. Learned counsel further submits that the residents of Village Khanna Chargal have filed representation before Tehsildar, Jammu and have brought into the knowledge of the Tehsildar Jammu that there is no village by the name Chack Chargal in the Tehsil Jammu and the village Chack Chargal has been wrongly reflected in the Form-A by the authorities for the proposed 10 years felling programme of Khair instead of village Khanna Chargal. Learned counsel further submits that Tehsildar Jammu vide Communication dated 13.09.2023 informed the Assistant Commissioner, Revenue about the same and further stated that village Chack Chargal has been inadvertently mentioned in the list of proposed 10 years felling programme of Khair wood instead of Village Khanna Chargal and thereafter, the Assistant Commissioner, Revenue Jammu vide communication dated 14.09.2023 informed the Divisional Forest Officer, Jammu Forest Division that the inhabitants of Village Khanna Chargal through DDC Chairman have filed a representation, seeking clarification of village name inadvertently written as Chack Chargal instead of Khanna Chargal, which falls under the jurisdiction of Tehsil Jammu in the list of proposed 10 years' felling programme of Khair trees of District Jammu and the Assistant Commissioner, Jammu through the medium of aforesaid Communication brought into the

knowledge of the Divisional Forest Officer that Tehsildar Jammu has furnished a categoric report and clarification regarding the same and further the Assistant Commissioner requested the respondent No. 4 to take necessary action in this regard. Thereafter, the Conservator of Forest East Circle, Jammu through the medium of communication dated 19.09.2023 informed the Additional Principal Chief Conservator of Forest that applications in pursuant to the 10 years' felling programme of Khair Trees were invited from various villages namely Manardi, Chack Chargal, Khatrial and Teli Lagoon, however, in the meantime the villagers from Manani approached the office of Conservator of Forest Jammu with a grievance that the name of the village Manani has been misspelled in the 10 years' felling programme as Manardi.

8. It is the case of the petitioner that the Deputy Commissioner, Jammu vide communications dated 29.08.2023 and 14.09.2023 had communicated to the Chief Conservator of Forest that there is no village by the name of Manardi in Tehsil Akhnoor and Chack Chargal in Tehsil Jammu, however, villages name Manani at Naibat Sohal in Tehsil, Akhnoor and Khanna chargal in Tehsil Jammu exist. It was further informed by the Deputy Commissioner, Jammu that the applications in Form-B from the concerned villagers are not being entertained by the Divisional Forest Officer, Jammu because of the said typographical error. It is stated that the Deputy Commissioner further requested the Conservator of Forest to correct the said typographical error in a time bound manner so that the application forms of the concerned villagers can be entertained. Thereafter, the

Chief Conservator of Forest vide Communication dated 22.09.2023 informed the respondent No. 2 that due to misspelling of the above named villages, the application forms from the farmers could not be entertained at the office of DFO, Jammu. It is also stated that the Chief Conservator of Forest further requested the respondent No. 2 that considering the typographical error, the concerned villagers may be allowed to submit their application forms in view of their genuine demand, but despite lapse of a considerable period of time, the application forms of the petitioners and the other villagers could not be entertained and with no fault on the part of the petitioners, the respondents have neither extended the date of submission of the application forms for cutting of khair wood in village Khanna Chargal nor the respondents accepted the application forms, i.e, Form-B of the petitioners for seeking permission for felling the khair trees on their land.

9. Feeling aggrieved of what has been stated above, the petitioners seek a writ in the nature of mandamus, seeking direction against the respondents to extend the date of submission of application forms/validity period of acceptance of application forms, i.e., Form-B for cutting of khair Trees for village Khanna Chargal on the following grounds:-

- (a) ***That the petitioners are owners in possession of land situated in village Khanna Chargal in District Jammu falling under the Forest Range Bahu and the empowered officer in consonance with the SRO 111 of 2016 had issued an order dated 10.09.2016 by virtue of which sanction was accorded for felling of khair trees for the year 2023-24 in various villages including the village Khanna Chargal, however, the name of the village Khanna Chargal has been wrongly reflected as Chack Chargal and the same has been done without conducting any enquiry and seeking any record from the revenue authorities. The***

aforesaid error has been committed by the respondents themselves and the petitioners herein are being made to face the consequences of the said action, inasmuch as the khair wood trees which have grown on their land is causing harm to the growth of the crops over their land and despite having received the representation, the application under Form-B has not been accepted;

- (b) That the Govt. has framed a management plan vide SRO 111 of 2016 whereby and wherein the provisions have been made through the medium of which a 10 year felling programme has been devised, whereby and wherein, an year wise marking of various identified lands over which khair wood is grown, is done and only thereafter, a permission for cutting the said trees is given under the provisions of SRO 111 of 2016, however, the village of the petitioners fell under the planned year 2023-24 but the name of the village WAS wrongly typed by the concerned authorities, the petitioners and the other villagers despite having brought the same fact into the knowledge of the concerned Tehsildar and the other authorities, yet are being made to run from pillar to post for the correction of a minor typographical error made by the respondents themselves and now the respondents having received the report from concerned revenue authorities are not accepting the application forms i.e. Form-B of the concerned farmers including the petitioners;*
- (c) That the respondents are conscious of the report of Tehsildar Jammu as well as the report of Assistant Commissioner, Revenue Jammu, whereby and wherein it has been categorically stated that the name of the village Khanna Chargal is inadvertently written as Chack Chargal and despite having received the report on 14.09.2023 are deliberately lingering on the matter for the reason best known to the respondents, therefore, the respondents are required to be directed to accept the application forms of the petitioners i.e. Form-B for grant of permission of felling khair trees over their land;*
- (d) That the respondents who were initially not accepting the Form-B of the petitioners on the ground that the village of the petitioners does not fall under the management plan for the year 2023-24 as the name of the village was wrongly written as Chack Chargal instead of Khanna Chargal and when the petitioners represented the concerned Tehsildar, after proper verification had informed the respondents that the name of the village has been wrongly written as Chack Chargal instead of Khanna Chargal, the respondents admitted the same and in fact the respondent no. 4 through communication dated 19.09.2023 informed the respondent No. 2 that there is a typographical error in the aforesaid management plan and despite having received a request from the Additional Deputy Commissioner Revenue no action was taken and till date the matter has been kept in cold*

storage without taking any decision over the said issue.”

10. Learned counsel for the petitioners submits that the petitioners would feel satisfied, if the instant writ petition is disposed of by directing the respondents to treat the writ petition as representation and accord consideration to the same strictly under rules and as per law within some reasonable period.

11. Notice.

12. Mr. Amit Gupta, learned AAG waives notice on behalf of the respondents. He submits that the respondents have no objection, if the instant writ petition is directed to be treated as representation and can be decided strictly in accordance with the rules and as per law.

13. In view of the submissions made by the learned counsel for the parties, the instant writ petition is disposed of, at the threshold, with a direction to the respondents to consider the claim of the petitioners by treating this writ petition as representation and take a decision thereon, strictly under rules and as per law and pass consideration order within a period of four weeks from the date a certified copy of this order alongwith complete set of writ petition are made available to the respondents.

14. ***Disposed of***, as above alongwith connected application.

(Wasim Sadiq Nargal)
Judge

JAMMU
29.12.2023
Ram Krishan

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