

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

Case No. :- WP (C) No. 3302/2023
CM No. 7994/2023

**Inhabitants of Village Hubbi,
Tehsil Kotranaka, District Rajouri
Th. Jarnail Singh**

.....Petitioner(s)/Appellant(s)

Through: Mr. Surjeet Singh Andotra, Advocate.

Vs

1. **UT of J & K Th.
Secretary to Government, Land
Revenue Department,
Government of J&K,
Civil Secretariat, Jammu;**
2. **Principal, Jawahar Navodaya
Vidyalaya situated at Village
Hubbi, Tehsil Kotranka, Rajouri;**
3. **Deputy Commissioner, Rajouri;**
4. **Additional Deputy Commissioner,
Kotranaka Rajouri;**
5. **Tehsildar, Kotranaka Rajouri.**

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Aparna Gupta, Advocate.

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

**ORDER
30.12.2023**

1. Through the medium of the instant petition filed under Article 226 of the Constitution of India, the petitioners seek the following reliefs:-

“1. Directing the official respondents to constitute a committee for conducting the demarcation with respect to land falling under Khasra Nos. 299, 310/1, 302, 303, 304, 305, 85, 308, 309 situated near to JNV (Jawahar Navodaya Vidyalaya) School Hubbi Tehsil Kotranka, District Rajouri so that the dispute can be settled down;

- 1. Directing the respondent no.3 and 4 to expeditiously decide the matter pending before him and further conduct an independent enquiry in the matter;**
- 2. Directing the official respondent to decide the representation/application dated 14-11-2023 moved by the petitioner in order to settle the dispute forever;**
- 3. Directing the respondents not to take law in their own hands and deprive the petitioners of their property;**
- 4. Directing the respondents not to take law in their own hands and encroach upon the approach road Jawahar Navodaya Vidyalaya Model School-Kotranka City, Rajouri;**
- 5. Directing the respondents not to take law in their own hands and not to demolish the graveyard, Dargah, and Bala Raja Devta Sathan;**
- 6. Any other relief which this Hon'ble Court may deem fit and proper in the facts and circumstances in favour of the Petitioner and against the Respondents in the interests of justice."**

2. The facts under the shade and cover of which the instant petition has been filed are that the petitioners, who are the residents of village Hubbi have a common cause of action against the respondent No. 2, who is forcibly trying to encroach upon and to take away the land of the villagers and destroy the residential houses/shops and also the fruit giving trees and agricultural land whatever is left with the villagers. It is stated that since the respondents did not give any attention to the grievances of the residents of village Hubbi, the residents of the said village in a general meeting have authorized Jarnail Singh S/o Amar Singh (Ex-Sarpanch) to approach this Court for redressal of their grievances. It is also stated that the Village Hubbi, which is far-flung and backward area, is a part of Tehsil Kotranka, District Rajouri and the said village is consisting of about 750 families having more than 4500 population and that more than 150 families

reside in village Hubbi and their only source of livelihood is agriculture and fruit giving trees. The entire village depends on the agriculture for their survival and there is no other source of livelihood. It is further pleaded that a road was constructed from Jawahar Navodaya Vidyalaya Model School-Kotrana City to Kotranka City by the Public Works Department, which is about 12 feet wide and the petitioners had already provided land for the construction of the said road.

3. It is the case of the petitioners that they have their ancestral land, houses and shops nearby the Gate of J.N.V School Kotranka and some of inhabitants of village Hubbi also have constructed their shops and Pacca houses over their ancestral land belonging to them. The school authorities, i.e., respondent No. 2 about 35 years ago, had duly demarcated their land and constructed/raised the boundary wall therein and have left not a single Marla of land outside their boundary wall, which fact is very much evident from the on spot verification. It is the further case of the petitioners that the concerned School authorities and revenue department have demarcated and acquired their land for construction of school building and also acquired the said land by raising boundary wall more than 35 years ago. In the month of December 2023, the respondent No. 2-school authorities without assigning any reason and justification, tried to illegally encroach the ancestral land of the inhabitants of Village Hubbi falling under Khasra Nos. 299, 310/1, 302, 303, 304, 305, 85, 308, 309 and also tried to block the road constructed by the PWD department for connecting the village Hubbi to Kotranka City. The

local inhabitants requested the respondent No. 2 not to interfere in the ancestral land/property and also not to block and encroach upon the road constructed by the PWD department way back in the year 1987, but the school authorities are hell bent to encroach the ancestral land belonging to inhabitants of Village Hubbi and also the approach road.

4. Learned counsel for the petitioner submits that the petitioner had requested the revenue authorities to first demarcate the personal land of the inhabitants, but the school authorities and revenue officials, Sub-District Kotranka are hands in glove and with a conspiracy want to dispossess petitioners illegally and are trying to encroach the land belonging to petitioners. Feeling aggrieved of the aforesaid act on the part of respondent-school, the petitioners had even moved an application before the Additional Deputy Commissioner Kotranka for demarcation of land falling under Khasra Nos. 299, 310/1, 302, 303, 304, 305, 85, 308, 309 situated near to JNV School Hubbi Tehsil Kotranka District Rajouri and not to demolish the graveyard, Dargah, and Bala Raja Devta Sathan and Road constructed in the ancestral land, so that the proper report by an independent Committee on demarcation can come forward and clinch the issue and settle the dispute once for all but instead of taking an appropriate action, the official respondents slept over the matter and till date, no action is taken by the official respondents. Moreover, the petitioner requested several times before the concerned Tehsildar as well for demarcation of land, but nothing substantial had been done till date.

5. Learned counsel for the petitioners further submits that official respondents are under obligation to decide the representation/application for demarcation of the aforesaid land through a Committee by independent officials, so that the prevailing situation in the area can put to rest, but the official respondents, who are hand in glove with the school authorities are unnecessary harassing the petitioners. It is also submitted that till date, no action have been taken by the respondents. The local revenue Officials of Sub-District Kotranka are favouring the School authorities i.e. Respondent No. 2 and are totally hostile towards the (petitioner as well as inhabitants of the Village Hubbi Kotranka Rajouri) for their personal benefits. It is further submitted that it is a settled law that a trespasser cannot be evicted from his property without adopting the due course of law. In the present case, the petitioners are the owner in possession of the land falling under Khasra Nos. 299, 310/1, 302, 303, 304, 305, 85, 308, 309 from the last more than 100 years.

6. Feeling aggrieved of what has been stated above, the petitioners have approached this Court through the medium of the instant writ petition.

7. Learned counsel for the petitioner submits that the petitioner 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.

8. Notice.

9. Mrs. Monika Kohli, learned Sr. AAG waives notice on behalf of the respondents. She 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.

10. With the consent of learned counsel for the parties, the instant writ petition is disposed of, at the threshold, with a direction to the respondent No. 5-Tehsildar Kotranaka, Rajouri 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 six weeks from the date a certified copy of this order alongwith complete set of writ petition are made available to the said respondent.

11. **Disposed of**, as above alongwith connected applications.

(Wasim Sadiq Nargal)
Judge

JAMMU
30.12.2023
Ram Krishan

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