

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

Case: LPA No. 217/2024
In WP (C) No. 287/2023
CM No. 6141/2024

Jujhar Singh, Age 69 years
S/o Late Mahant Janak Singh
R/o House No. 49/2 Nanak Nagar,
Jammu. ...Petitioner(s)/Appellant(s)

Through: Mr. Faiz Ul Arif Fahmi, Advocate.

V/s

1. Union Territory of J&K, through
Commissioner/Secretary Revenue
Department, Civil Secretariat, Jammu. Respondent(s)
2. Harbir Singh S/o Dr. Harbhajan
Singh R/o H.No. 20B, D/C, Gandhi Nagar,
Jammu.
3. Deputy Commissioner, Jammu.
4. Tehsildar R.S. Pura
5. Custodian General, Evacuee
Property, Jammu.
6. Custodian, Evacuee Property,
Jammu.
7. Sandeep Singh S/o Jujhar Singh
8. Satwant Singh S/o Jujhar Singh
9. Jaswinder Kour W/o Jujhar Singh
All residents of House No. 49/2
Nanak Nagar, Jammu. Proforma Respondent(s)

Through: Mr. Rameshwar P. Sharma, Advocate for R-2.

**CORAM: HON'BLE MR.JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE**

**ORDER (ORAL)
27.11.2024.**

(Sanjeev Kumar-J)

1. This intra-court appeal is directed against an order dated 24.09.2024 passed by learned Single Judge (for short, 'the Writ Court') in WP (C) No. 287/2023, titled as, '*Harbir Singh Vs. Union Territory of Jammu and Kashmir & others*', whereby the Writ Court has set aside the order of the Jammu & Kashmir Special

Tribunal (for short, 'the Tribunal') dated 23.12.2022 and remitted the case back for reconsideration.

2. The order of the Tribunal dated 23.12.2022 has been set aside by the Writ Court not on the merits but on the ground that, as per the opinion of the Writ Court respondent-2, Harbir Singh, was not properly represented before the Tribunal.

3. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the ground on which the impugned order of the Tribunal has been set aside by the Writ Court is not tenable in law. Needless to say that a party before a Court or Tribunal is well within its right to either appear in person and prosecute or contest the matter, as the case may be, without the assistance of a lawyer. The Court or the Tribunal cannot compel a party to necessarily engage the services of an Advocate. In the instant case, respondent-Harbir Singh, who was the respondent before the Tribunal, decided to contest the Revision Petition through her mother Dr. Balbir Kour and for that purpose, the respondent-Harbir Singh had executed Power of Attorney in favour of his mother.

4. There is nothing more discernable from the order passed by the Tribunal that the respondent-Harbir Singh has suffered any prejudice for want of assistance of an Advocate. The Tribunal has considered all aspects of the matter and has formed an opinion on merits for disposal of the Revision Petition. We are not saying as to whether the opinion formed by the Tribunal and ultimate order passed by it is correct in law or not, for that would be the subject matter of determination by the Writ Court when it takes up the matter for consideration in terms of order/judgment.

5. With a view to cut short the delay that is likely to take for determining the controversy finally, we are of the opinion that it would meet the ends of justice if

we set aside the order of Writ Court and request the Writ Court to decide the Writ petition afresh.

6. The respondent-Harbir Singh is now represented by Mr. Rameshwar P. Sharma, Advocate, and therefore, the prejudice, as was viewed by the Writ Court while passing the impugned order, would also be no longer there.

7. For the foregoing reasons, we allow this appeal, set aside the order/judgment passed by the Writ Court. The writ petition shall stand revived and the same shall be considered and decided by the Writ Court on merits.

8. Let the writ petition be listed for consideration on 18.12.2024.

9. Having regard to the nature of controversy involved, we request the writ Court to expedite the consideration of the matter.

10. Needless to say that interim direction, if any, passed in the writ petition shall continue till the matter is considered by the Writ Court.

11. Appeal is, accordingly, '*disposed of.*'

(MOHD. YOUSUF WANI)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
27.11.2024
Renu

