

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

LPA No.198/2023
CM Nos.6587/2023 & 6588/2023

1. Mohd. Rafiq Khan, age-48 Years
2. Mohd. Bashir Khan, age 51 Years
3. Mohd Saleem Khan, age 47 Years
4. Mohd Shabir Khan, age-49 Years
5. Mohd Shamim Khan, age 40 Years

Sons of Noor Mohd Khan
R/o Village Maidan Tehsil Mendhar,
District Poonch.

....Applicants/Appellants

Through :- Mr. K.K Pathan, Advocate.

Versus

1. UT J&K through
Commissioner/Secretary to
Government, Revenue
Department, Civil Secretariat, Jammu
2. Manzoor Hussain, Age 52 years
S/o Mir Mohd Residents of Village
Sakhi Maidan, Tehsil Mendhar,
District Poonch.
3. Deputy Commissioner Poonch.
4. Additional Deputy Poonch.
5. Astt. Commissioner Revenue(R),
Poonch.
6. Sub Divisional Magistrate (SDM)
Mendhar.
7. Tehsildar Mendhar.

....Respondents

Through :- Mrs. Monika Kohli, Sr. AAG for R-1 & 3 to 7.
Mr. Mohd. Arif, Advocate for R-2.

**CORAM: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
18.03.2024

CM No.6588/2023

Instant application has been moved by the applicants/appellants for condonation of delay of 44 days in filing the accompanied appeal.

For the reasons assigned in the application, coupled with submissions made by learned counsel for the applicants, the same is allowed. Accordingly, the delay of 44 days in filing LPA No.198/2023 is condoned.

Applications stands disposed of.

LPA No.198/2023

1. On request of learned counsel appearing for the parties, the main appeal is taken up for consideration.
2. It is submitted by learned counsel appearing for the appellants that the writ Court has decided the petition bearing **WP(C) No.1800/2023** titled '*Manzoor Hussain vs. Deputy Commissioner, Poonch and others*', filed by private respondent No.2 herein, without affording opportunity of being heard to the writ respondents-appellants herein, who were contesting respondents before the writ Court and due to this reason, the appellants have thrown challenge to the order impugned on the strength of averments made in the appeal.
3. It is contended that the writ respondents-appellants herein are trying to get possession of a separate land falling under Khasra No.203/3 measuring 04 Kanals 02 Marlas from respondent No.2-herein. It is further submitted that the appellants herein, in fact are contesting respondents before the writ Court, therefore, the order impugned dated 17.07.2023 passed by the writ Court has direct bearing on the appellants herein being affected party.
4. On the other hand, Mr. Mohd. Arif, learned counsel appearing on behalf of respondent No.2 herein, has submitted that no pre-judice is caused to

appellants herein, as the learned writ Court has not determined any rights of the parties.

5. Heard learned counsel appearing for the parties and perused the writ record.

6. The writ petition filed by the private respondent No.2 herein, has been disposed of vide order dated 17. 07.2023 by the learned Single Judge, with a direction to the official respondents not to allow the private respondents-appellant herein, before the writ Court to interfere or to raise any hindrance in cultivation process of the petitioner.

7. A bare look of the impugned order dated 17.07.2023 is indicative of the fact that the same has been passed without giving opportunity of being heard to the writ respondents-appellants herein.

8. Viewed thus, we, without expressing any opinion on the merits of the case, propose to dispose of this appeal and as such, this appeal is, disposed of, by setting aside the impugned order dated 17.07.2023 and restoring the writ petition to its original number with a request to learned Single Judge to consider and decide the same after affording reasonable opportunity of being heard to the affected parties. Let the petition being WP(C) No.1800/2023 be listed before the writ Court on 08.05.2024. Till then, the parties shall maintain status quo. Alteration/modification on laying motion.

9. The appeal stands disposed of.

(Puneet Gupta)
Judge

(Tashi Rabstan)
Judge

Jammu:
18.03.2024
Surinder

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No