

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

Case:- CM(M) No. 286/2024
CM No. 7554/2024

1. Ahmed Din, Age 61 years Appellant(s)/Petitioner(s)
S/o Abdul Ghani, Caste Sheikh R/o
Ward No. 1, Mohalla Qazi Morah,
Tehsil Haveli, District Poonch.
2. Reyaz Ahmed, Age 40 years, S/o Sana
Ullah, R/o Ward No. 1, Mohalla Qazi
Morah, Tehsil Haveli, District Poonch.
3. Wakar Ali, Age 32 years, S/o Sana
Ullah, R/o Ward No. 1, Mohalla Qazi
Morah, Tehsil Haveli, District Poonch.

Through: Mr. K. S. Puri, Advocate.

Vs

1. Wazir Jan, W/o Late Abdul Aziz, ... Respondent(s)
R/o Ward No. 1, Mohalla Qazi Morah,
Tehsil Haveli, District Poonch.
2. Javed Iqbal, S/o Late Abdul Aziz,
R/o Ward No. 1, Mohalla, Qazi Morah,
Tehsil Haveli, District Poonch.
3. Abdul Hafeez, S/o Late Abdul Aziz
R/o Ward No. 1, Mohalla Qazi Morah,
Tehsil Haveli, District Poonch.

Through:

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

ORDER
(30.12.2024)

1. A civil suit came to be commenced by one Abdul Aziz on file No. 130 of 2013 dated 05.11.2013 before the court of Sub Judge, (Special Mobile Magistrate), Poonch in which he came to name four persons as defendants out of whom three are the petitioners before this Court.

2. The civil suit was for a decree of permanent prohibitory injunction restraining the defendants from interference in peaceful

possession and ownership of the sole plaintiff with respect to suit land measuring 11 marlas in khasra No. 2687/1 situated at Qazi Mohra, Ward No. 1.

3. The suit came to be contested by the defendants No. 1 to 3 by filing a written statement stating therein that they are in possession of their own land situated in khasra No. 2685 of Qazi Mohra, Tehsil Havelli and under the garb of the civil suit, the sole plaintiff was intending to grab the land of the contesting defendants No. 1 to 3.

4. During the pendency of the civil suit, the sole plaintiff- Abdul Aziz came to expire resulting in bringing on record his three legal representatives.

5. During the pendency of the civil suit, a written compromise came to be presented by the parties to the civil suit on 31.10.2024 before the trial court of Sub Judge, Poonch whereby it came to be mutually agreed that the defendants would not interfere in the suit land measuring 11 marlas compromised in khasra No. 2687/1 and simultaneously, the legal representatives of the sole plaintiff would not interfere in the land of the answering defendants situated in khasra No. 2685. This compromise in written form was presented whereupon the respective statements of the parties to the suit also came to be recorded and the disposal of the suit under Order 23 CPC was warranted from the trial court of Sub Judge, Poonch.

6. A final compromise decree passed by the court of Sub Judge, Poonch has left the petitioners/contesting defendants aggrieved, inasmuch as the compromise decree has omitted reference of the contesting defendants/petitioners' land in khasra No. 2685 measuring 12 marlas wherefrom the legal representatives of the sole plaintiff are supposed not to cause any interference.

7. Therefore, the petitioners being aggrieved of the compromise decree dated 31.10.2024 are approaching this Court through the medium of this petition under article 227 of the Constitution of India seeking supervisory jurisdiction against the omission on the part of the court of Sub Judge, Poonch.

8. This case shall not detain this Court as the certified documents on record of this petition would bear out that the written compromise presented for settlement of the suit does make a mention about suit khasra No. 2687/1 and also khasra No. 2685 which bear respective possession of the parties to the suit and the parties to the suit have agreed from causing no interference in each other possession of the land in the respective khasra numbers and, therefore, the compromise, as it is, ought to have become a decree for the disposal of the suit but the court of Sub Judge, Poonch seems to have fallen in error in the judgment by omitting out reference to the khasra 2685.

9. In view of the above, this Court disposes of this petition by setting aside the compromise decree dated 31.10.2024 and directing

the court of Sub Judge, Poonch to consider and pass the final decree as a compromise decree based purely and securely on the basis of the text of the written compromise submitted by the parties to the suit and to pass a decree, accordingly, by an express observation to be made in the decree that the compromise decree not to be read or used against any 3rd party vis-à-vis the khasra numbers forming subject matter of the decree.

10. This petition is, accordingly, **disposed of**.

JAMMU
30.12.2024
Shivalee

(RAHUL BHARTI)
JUDGE

