

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

OWP No. 341/2008

**Kr. Baldev Singh, age 60 years
S/o Th. Maghar Singh,
R/o H. No. 35,
Ward No. 13,
Sungal Morh, Akhnur.**

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

Through: Petitioner present in person

Vs

- 1. Sh. Mangu Ram Sharma,
President Akhnoor,
Municipality, Akhnoor**
- 2. Sh. Y.S. Jamwal, Executive Officer,
Akhnoor Municipality, Akhnoor**
- 3. State of J&K,
Through Commissioner Secretary,
Deptt. of Housing & Urban, Civil Sectt.,
Jammu**
- 4. Director Local Bodies,
Gandhi Nagar, Jammu**
- 5. Himmat Singh, H. No. 36,
W. No. 13, Akhnur**

..... Respondent(s)

Through: Mr. P.S. Parmar, Advocate for R-6 & 7

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(04.07.2025)

- 01.** From the tone and tenor of the averments made in the writ petition it is beyond any doubt that the writ

jurisdiction of this court under article 226 of the Constitution of India has been invoked by the petitioner to settle his private dispute with the respondent No. 6-Himmat Singh in the context of construction undertaken by the said respondent No. 6-Himmat Singh who has been alleged to be land grabber by the petitioner adjacent to the petitioner's house and in which constructed accommodation, the respondent No. 6-Himmat Singh is said to be running a school in the name of "Little Star".

02. The petitioner has taken the liberty of instituting this writ petition on his own without seeking any legal consultation and assistance.
03. The petitioner is not having any legal background which is evident from the fact that he has come forward with wild allegations addressed against the Jammu and Kashmir Accountability Commission which, at the relevant point of time when it was in existence was comprised of former Judges of the High Court of Jammu and Kashmir. The petitioner in his petition has attributed to the respondent No. 1 and 2 acts of corruption and collusion whereas with respect to Jammu and Kashmir State Accountability Commission has also attributed

omission in not taking into account Jammu and Kashmir Government Notification SRO-45 of 2003.

- 04.** The fact that the subject matter of the writ petition is centered upon disputed questions of facts is borne out from the application which has come to be filed by the petitioner in February 2025 whereby he is seeking to implead one Promila Jamwal wife of the respondent No. 6-Himmat Singh by alleging in his application CM No. 1104/2025 that the 'Fard Intikhab' related to the sale of (6) six marlas of plot of land in favour of Promila Jamwal, wife of the respondent No. 6-Himmat Singh in December 2007 was illegally issued despite the government's ban on sale, purchase and construction with respect to the nature of land obtaining as 'Khad'.
- 05.** This Court, in terms of an order dated 21.04.2025, directed issuance of notice to the non-applicant-Promila Jamwal who is sought to be impleaded as party respondent in the writ petition.
- 06.** Mr. P.S. Parmar, learned counsel representing the respondent No. 6 accepts notice on behalf of non-applicant-Promila Jamwal.

- 07.** In terms of an order dated 25.08.2009, this Court came to delete the Jammu and Kashmir Accountability Commission from the array of the respondents.
- 08.** Today, the petitioner Mr. Baldev Singh has stated in the open Court that the Hon'ble Judges of the Jammu and Kashmir Accountability Commission, who were then presiding and constituting the Commission, were got influenced by the respondent No. 6.
- 09.** Mr. Baldev Singh-petitioner is not even aware of the fact that Jammu and Kashmir Accountability Commission as a party respondent No. 3 in the writ petition came to be deleted way back on 25.08.2009 and that is reflective of the fact that the petitioner is having lost the sense of his own writ petition in the cause pleaded thereto otherwise he would not have come forward with such irresponsible statement that the Judges of the Jammu and Kashmir Accountability Commission had acted under the influence of the respondent No. 6. If that was so, that in his writ petition the petitioner ought to have named the Judges of the Jammu and Kashmir Accountability Commission against whom the petitioner was having such an assured impression that the said Judges of the

Jammu and Kashmir Accountability Commission had failed the cause of the petitioner.

10. Thus, a dispute of civil nature obtaining between the petitioner and the respondent No. 6 is sought to be settled through the medium of the writ petition under article 226 of the Constitution of India and for that purpose this Court is expected by the petitioner to sift and sort disputed questions of facts for an end objective of ordering the removal of so-called unauthorized construction raised by the respondent No. 6-Himmat Singh by directing the respondents No. 1 and 2 to do the needful.
11. The fact that the writ petition involves the disputed questions of facts gets further confirmed from the very fact that the petitioner way back in the Month of May 2006 had come to file a civil suit on file No. 11 before the Court of learned Munsiff, Akhnoor addressed against the respondent No. 6-Himmat Singh wherein the petitioner had sought a decree of mandatory injunction against the respondent No. 6 for closure of windows obtaining at the 1st floor of the respondent No. 6's house opening towards the western side of the petitioner's house and also seeking permanent prohibitory injunction restraining the

respondent No. 6-Himmat Singh from opening other windows or door towards the house of the petitioner, meaning thereby that the petitioner was having no grievance whatsoever with respect to the existence of the same very house structure of the respondent No. 6-Himmat Singh as it is whereas in the writ petition filed on 21.04.2008, that is just after two years of institution of civil suit by him, came to seek removal of the unauthorized construction raised by the respondent No. 6-Himmat Singh without disclosing in the writ petition as to what is the unauthorized construction for the removal of which the petitioner is soliciting *writ of mandamus* unto the respondents No. 1 and 2 to act with respect to the house premises of respondent No. 6.

- 12.** In the light of aforesaid, the writ petition is held to be misconceived. Any observation made by this Court in dismissal of the writ petition will not prejudice the case of the petitioner in case if petitioner would resort to an appropriate legal course of action relatable to his alleged cause of action if any obtaining against the respondent No. 6-Himmat Singh in terms of violation of any of his proprietary rights or enjoyment thereof vis-à-vis the construction so made by the respondent No. 6-Himmat

Singh, provided the same is within the period of limitation and is maintainable in the eyes of law.

13. The writ petition is accordingly, ***dismissed***.

(RAHUL BHARTI)
JUDGE

JAMMU
04.07.2025
SUNIL

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

