

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

Case:- OW104/08/2018

Janki Devi

..... Petitioner(s)

Through: Mr. Y.P. Kaushal, Advocate

Vs

Shree Mata Vaishno Devi Shrine Board Katra & Anr.

.....Respondent(s)

Through: Mr. D C Raina, Sr. Advocate with
Mr. Adarsh Sharma, Advocate

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

ORDER
(27.10.2025)

1. The petitioner has invoked supervisory jurisdiction of this Court as it was then vesting under section 103 of the Constitution of Jammu and Kashmir thereby bringing the order dated **31.10.2017** passed by the court of Principal District Judge, Reasi under examination.
2. The petitioner, as a plaintiff, instituted a civil suit on the file of the District Judge, Reasi, in March 2010 for possession of suit land measuring 1 kanal and 3 ½ marla comprised in khasra No.326 of revenue village Katra, tehsil and district Reasi.
3. The petitioner in her suit had pleaded her dispossession from the suit land on **14.02.2010**, though not mentioning

the time of alleged dispossession but as could be inferred it has to be year 2010.

4. The alleged dispossession of the petitioner from the suit land is stated to have been effected by Shri Mata Vaishno Devi Shrine Board by its officials, who figured as sole defendant in the suit.
5. Later on, the Collector Land Acquisition, District Reasi came to be impleaded as co-defendant in the suit in terms of the order dated **03.06.2014**, passed by the trial Court of Principal District Judge, Reasi, with respect to impleadment of the Collector Land Acquisition, Reasi.
6. In the year 2017, by virtue of an order dated **24.05.2017**, the trial Court came to frame three (3) issues in the suit. Issue No.2 being treated as a preliminary issue about maintainability of the suit under section 9 of the Specific Relief Act, the adjudication of said issue by the trial Court led to passing of an order dated **31.10.2017**, holding the suit filed by the petitioner as not maintainable on the ground that suit against the Government under section 9 of the Specific Relief Act is not maintainable.
7. The fact that the petitioner had pleaded her dispossession from the suit property on the basis of her status as obtaining in the revenue record of Jamabandi, supported by khasra girdawari of 2008 to khasra girdawari of 2009, as such, even if the petitioner's suit, by misreference to section 9 of J&K Specific Relief Act, Svt., 1977, was to be

held not maintainable against the Government, although, the original defendant was not in the status of the Government still the petitioner should not have been non-suited by the trial court. The petitioner ought to have been given an option of maintaining the suit under section 9 of the J&K Code of Civil Procedure, Svt., 1977, so as to save the petitioner from suffering non-suited in her own cause for recovery of the possession of the allegedly claimed ownership land in suit.

8. In view of this position of law, this Court allows this petition and sets aside order dated **31.10.2017** by referring the petitioner's suit to be under section 9 of the J&K Code of Civil Procedure, Svt., 1977 (now Code of Civil Procedure 1908) and the adjudication of the suit is directed to be made on its merits.
9. The parties are directed to appear before the District Judge, Reasi, who shall restore the suit file back to its original number.
10. It is further directed that defendant No.2-the Collector Land Acquisition, is to be served afresh in the civil suit.
11. ***Disposed of.***

(RAHUL BHARTI)
JUDGE

JAMMU
27.10.2025
Sneha

Whether the order is speaking? : Yes/No

Whether the order is reporting? : Yes/No

