

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No.367/2019

Reserved on: 04.12.2025

Pronounced on: 11.12.2025

Uploaded on: 11.12.2025

1. Prem Kour, age 31 years
W/o Dayal Singh
 2. Harjeet Singh
S/o Late Dayal Singh
Both residents of village Chak Bhambo Tehsil Ramgarh
District Samba
- ...Petitioner(s)

Through:-Mr. S. M. Chowdhary, Sr. Advocate with
Mr Bilal A Chowdhary, Advocate

v.

1. The State of J&K through Financial Commissioner, (Revenue) J&K, at Jammu.
2. The Tehsildar, Ramgarh
3. Pritam Singh S/o Late Sh. Mangat Singh, R/o Chak Bhambo Tehsil Ramgarh, District Samba.

...Respondent(s)

Through:- Mrs. Monika Kohli, Sr. AAG
Mr. Sahil Gupta, Advocate

Coram:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

JUDGMENT

1. By the petition in hand, the petitioners, are challenging and praying to quash the order dated 05.02.2019, hereinafter for short to be referred as impugned order, passed by the respondent no. 1, by virtue of which the revision petition filed by respondent no. 3, against the order of respondent no. 2, has been allowed and the respondent no. 2 has been directed to attest a fresh mutation in respect of the landed estate of Mangat Singh.

BRIEF FACTS

2. In order to understand and appreciate the controversy in its right perspective, a brief resume of the events that has led to the filing of the instant petition are desired to be summarized in the first instance, thus:
3. The Government of Jammu and Kashmir in pursuance of a Cabinet Order No. 578-C of 1954 had allotted a chunk of land in favour of Mangat Singh and Deva Singh being the refugees of PoJK as compensation in village Chak Bhamboo, Ramgarh, Tehsil Samba. The said land upon the demise of the original allottees devolved upon their legal heirs. In terms of the report of the concerned patwari the landed estate left behind by Mangat Singh was inherited by Pritam Singh and that of Deva Singh, who had died issueless, the property was inherited by Dayal Singh and Kartar Singh who were shown to be the family members of said Deva Singh. It needs to be emphasized herein that while Deva Singh died issueless, Mangat Singh was survived by five sons, Pritam Singh, Dayal Singh, Pal Singh, Kartar Singh and Amar Singh. In terms of the report of the Patwari concerned, the family of Mangat Singh constituted Mangat Singh and Pritam Singh alone as the other two sons i.e. Pal Singh and Amar Singh had separate families and similarly Dayal Singh and Kartar Singh were shown to be the family members of Deva Singh.
4. A mutation in respect of the property of the deceased allottee Mangat Singh had accordingly been reflected in the name of Pritam Singh on

the demise of original allottee. However, the said mutation came to be challenged by the petitioners herein before the Joint Settlement Commissioner on the ground that the husband of petitioner no. 1 and father of petitioner no. 2, Dayal Singh, being the real son of deceased Mangat Singh, original allottee, therefore, they were entitled to inherit his property together with Pritam Singh.

5. The said revision petition was accepted by the Joint Settlement Commissioner, and, accordingly, vide order dated 16.4.2005, referred the matter to the Financial Commissioner holding that the property could not have been inherited by Pritam Singh alone in exclusion of the petitioners herein.
6. Aggrieved of the said order of Joint Settlement Commissioner, the respondent no. 3 assailed the same by a revision petition before the Financial Commissioner (Revenue) J&K. The said revision petition came to be remanded to the Tehsildar Ramgarh on the joint request of learned counsel for the parties. Subsequently, the Tehsildar Ramgarh in terms of order dated 14.01.2017, attested mutation in the name of Pritam Singh and Harjeet Singh.
7. The respondent no. 3 assailed the said order of Tehsildar in a revision petition before the learned Financial Commissioner (Revenue) J&K, Jammu. The said revision petition was allowed by respondent no. 1 in terms of order dated 05.02.2019, impugned herein, by setting aside the

order dated 14.01.2017 and for attestation of mutation exclusively in favour of Pritam Singh in terms of Government Order 578-C.

8. The order impugned has been assailed primarily on the grounds that: a) the order impugned has been passed without application of mind; b) the order impugned is in contravention to the Government Order No. 578-C; c) the revisional authority has not interpreted the para 15(b) (2) of the Govt Order No. 578-C in its correct perspective and the petitioners and respondent no. 3 are entitled to inherit the property of Mangat Singh in equal shares; the order dated 14.01.2017 does not suffer from any legal infirmity; the order impugned is patently illegal, perverse and not sustainable in the eyes of law; the respondent no. 3 had held petitioner no. 2 and respondent no. 3 entitled in equal shares; the land in question had been partitioned by Mangat Singh during his lifetime.
9. Upon notice, respondents appeared and respondent no. 3 filed his reply also stating therein inter alia that none of the rights of the petitioners have been violated which would give them a cause to file and maintain the instant petition; the order impugned is well reasoned and does not call for any interference; the petitioners have not come with clean hands; the petition suffers from *suppressio-veri* and *suggestio-falsie*; the mutation had been effected in the name of respondent no. 3; the petitioners are not entitled to any relief; respondent no. 3 together with his father Mangat Singh constituted one family, the other two brothers namely Pal Singh and Amar Singh constituted a separate family while

the two other brothers namely Dayal Singh and Kartar Singh constituted family with Deva Singh, the brother of Mangat Singh; Rule 12 of the Cabinet Order No. 578-C provides that “no one can get more than one allotment for displaced person” therefore, once Dayal Singh inherited the property of Deva Singh there was no question of him having inherited the property of Mangat Singh also.

10. Heard learned counsel for the parties and perused the material available on record. Learned counsel for the parties during the course of submissions reiterated their respective pleas in support of their case.
11. Considered the submissions made.
12. Let us now have a glance of the relevant portion of the impugned order and the order dated 14.1.2017 passed by the Tehsildar, Ramgarh, herein:-

(IMPUGNED ORDER DATED 05.02.2019)

- 9) *To sum up It can safely be concluded that Pritam Singh being the lone son included in the family of his father Mangat Singh at the time of allotment is entitled to occupancy tenancy rights held by Mangat Singh as the succession of allottees of land of displaced persons is as per Para 15-B (2) of Cabinet order 578-C. The claim of other legal heirs of Mangat Singh would become relevant only if Mangat Singh had passed away issueless in which eventuality Hindu Succession Act was to follow.*
- 10) *The revision petition accordingly is accepted and the order dated 14,01.2017 passed on mutation no. 34 of estate Chak Bambo Tehsil Samba is set aside. Tehsildar concerned is directed to attest the mutation in the name of Pritam Singh alone for the reasons mentioned herein above.*

- 11) *Interim orders, if any, issued by this court are vacated.*
- 12) *File shall go to records after due completion."*

ORDER DATED 14.01.2017 PASSED BY
TEHSILDAR RAMGARH.

The matter in presence of Atma Singh S/o Bhag Singh Numbardar, Pritam Singly S/o Mangat Singh, Kirpal Singh S/o Billa Singh, Narinder Singh S/o Mir Singh, Harmidner Singh S/o Gian Singh, Harjeet Singh S/o Dayal Singh, Dayal Chand S/o Chuni Lai Chowkidar Deh, Prerm Kour Wd/o Dayal Singh was presented in the camp. Prem Kour Wd/o Dayal Singh appeared and stated that her father-in-law Sh. Mangat Singh S/o Labh Singh was refugee allottee of 1947 and he was allotted 06 acres of land in village Chak Bhambo and by virtue of mutation No. 20 u/s 3(A) of Agrarian Reforms Act 1976, he acquired the occupancy tenancy rights) in respect of the aforesaid land and after his death, his inheritance by virtue of mutation No. 34 dated 21-10-1982, the Naib Tehsildar Ramgarh has wrongly attested in favour of Pritam Singh S/o Mangat Singh, whereas two sons of Mangat Singh namely Pritam Singh Dayal Singh (husband of applicant) as per Form (A) were also included in his family. I and my son had filed a revision petition against the mutation No. 34 before the Settlement Commissioner, J&K. The Settlement Commissioner has accepted the revision petition and set aside the mutation. The file was sent to Financial Commissioner (Rev) J&K. The Financial Commissioner vide order No. 207/FCAP, dated 15-10-2012, has set aside the mutation No. 34 and the case has been remanded for denovo enquiry to the Tehsildar concerned. The mutation be

attested afresh. The undersigned summoned both the parties and also granted time for producing evidence and for conducting enquiry held the camp on spot. Both the parties are present on spot. The record enclosed with the file and produced by the patwari is pursued. As per Form-A both the sons of deceased Mangat Singh namely Pritam Singh and Dayal Singh were included in the family of Mangat Singh. The copy of Form-A has been issued by DPRO, Jammu on 06-04-2016 and it is proved from it that at the time of allotment of the land only Pritam Singh and Dayal Singh sons were included allottes and both the sons are entitled to inherit the property of the deceased. Whereas the attesting authority of the mutation has wrongly attested the mutation in favour of Pritam Singh, which is not correct. The above said persons present in the court have also supported that both the sons were included in the family of deceased Mangat Singh and at present also, the land of deceased Mangat Singh, his both sons are in cultivating possession. Sh. Pritam Singh respondent is also present in the camp and stated that he was at alone residing with his father. Form-A is incorrect and he is only entitled to inherit the property. He further stated that Harjeet Singh S/o Dayal Singh has acquired the property of his uncle at Nanga, as such, he is not entitled to inherit the said property. In view of the record produced and enquiry conducted on spot, the undersigned came to this conclusion that the family of deceased Mangat Singh in which two persons namely Pritam Singh and Dayal Singh sons of Mangat Singh were included. The statement of Pritam Singh is baseless. Hence, it is ordered that the occupancy rights in respect of inheritance of late Mangat Singh mentioned in Col. No. 5 is attested in favour of Pritam Singh, Dayal

Singh sons of Mangat Singh in equal share and further inheritance of Dayal Singh is attested in favour of Harjeet Singh S/o Dayal Singh order announced. Sd/- Tehsildar Ramgarh.”

13. The controversy projected by the medium of instant petition seems to be solely revolving around the Cabinet decision No. 578-C of 1954. While the one side i.e. petitioners are claiming right of inheritance as the successors of Mangat Singh, the respondent no. 3 projects the rider of Cabinet Order No. 578-C appearing therein at Rule 15 (b) (2), to counter such claim projecting himself as the lone family member who had to inherit the property of deceased Mangat Singh. It would, therefore, be profitable to reproduce the relevant Rule of the Cabinet Order No. 578-C of 1954, herein, thus:

“Allotment of Land to Displaced Persons Rules, 1954.

Cabinet Order No. 578-C of 1954 dated 7th May, 1954....

15-(B) (2). After an allottee has died or otherwise ceased to be in possession of the allotted land, his interest in the allotted land shall be devolved on the other members of his family (in whose favour allotment of land had been originally made or regularized under the said rules) under the rule of survivorship and not on those who were not included in such family at the time of first valid allotment.”

14. The contention of the learned counsel for the respondents is that the above referred provision of the Government Order No. 578-C of 1954, places a bar that those survivors of the deceased allottee who were not included in his family at the time of first valid allotment cannot devolve

his rights. By such submission, the learned counsel would mean that the husband of petitioner no. 1 and father of petitioner no. 2 Dayal Singh was not the part of the family of Mangat Singh when the first allotment was made in favour of deceased allottee Mangat Singh, therefore, are estopped in law to devolve the interests of the deceased allottee Mangat Singh in view of the bar *supra*.

15. Since the claim of the petitioners is being opposed and has been denied in the revision petition by respondent no. 1 on the basis of Government order *supra*, therefore, its interpretation is important. The learned counsel for the respondents is not wrong in submitting that such legal heirs/ survivors of the deceased allottee who were not part of the family of such allottee at the time of first valid allotment cannot devolve the interests of the deceased allottee as the bar appearing in Rule 15 (B) (2) of the Government Order 578-C of 1954 creates an exception even amongst the survivors of the deceased allottee itself and only those survivors who were shown to be part of his family at the time of allotment are rightly to devolve his interests. The finding returned by the learned Financial Commissioner (Revenue) J&K, Jammu, respondent no. 1, to this effect cannot be faulted. However, ironically the respondent no. 1 has noticed only Pritam Singh, respondent no. 3 to be figuring in Form 'A' of the family of deceased allottee Mangat Singh, therefore, held him entitled solely to inherit his property. The respondent no. 1 ought to have carefully examined the material before

rejecting petitioners' claim and ousting them to inherit from the estate of Mangat Singh.

16. The record placed on the file in the shape of Form 'A', insofar as the allotment of Mangat Singh is concerned, does reflect both Pritam Singh and Dayal Singh as the part of family of said Mangat Singh, therefore, how could the benefit of survivorship be extended in favour of Pritam Singh, respondent no. 3 alone, in exclusion of the dependents of Dayal Singh, the other son of deceased Mangat Singh? The conclusion arrived at by the respondent no. 1 in so directing appears to be unreasonable to say the least.
17. The Tehsildar Ramgarh in terms of order dated 14.01.2017 has also in unambiguous terms referred to Form 'A' of allotted land of Mangat Singh and recorded that both Pritam Singh and Dayal Singh have been shown to be the part of family of deceased Mangat Singh, accordingly held both of them entitled to inherit the property left behind by the deceased.
18. The respondent no. 1 though has stated in the order impugned that Form 'A' in respect of landed estate of Mangat Singh reflects only Pritam Singh to be family member of the deceased allottee, therefore, in terms of Order 578-C, he is the only eligible person to inherit the property, however, he did not record the reasons of disagreement with the conclusion arrived at by the Tehsildar who has held that both Pritam Singh and Dayal Singh were shown to be the family members of

Mangat Singh at the time of first allotment. There cannot be, but a single Form 'A' in respect of the landed estate of deceased allottee Mangat Singh and the one that is available on record before this court also shows both Dayal Singh and Pritam Singh to be the part of family of Mangat Singh, the view taken by the Tehsildar Ramgarh also in terms of order dated 14.01.2017. In this view of the matter, the respondent no. 1 has either lost sight of or completely erred in recording that Form 'A' of landed estate of Mangat Singh shows only Pritam Singh to be his sole family member.

19. It has been informed by the learned counsel for respondent no. 3 that during the pendency of this petition, Pritam Singh, respondent no. 3, has passed away.
20. The report dated 13.08.1982 of which reference has been made by the respondent no. 1 in the impugned order to buttress the finding that respondent no. 3 is the only recorded family member of the deceased allottee Mangat Singh, has been placed on record and it appears that the said report only refers to the registration form submitted by Deva Singh for his registration as migrant from Koil Bhimber District Mirpur a Pak held area of the J&K State and payment of Rs. 1000/- to him as ex-gratia grant. The said report also reflects the family details of the said Deva Singh consisting of himself, Prem Kour, and Surjeet Kour. The said report does not disclose the family details of Mangat Singh as taken note of, in the impugned order, by respondent no. 1. Even otherwise a

report of a revenue official/ officer cannot substitute or have an overriding effect over Form 'A' which has been relied upon by the Tehsildar in his order dated 14.01.2017.

21. Having regard to what has been said hereinbefore, this court finds the petitioner no. 2, in his capacity as the son of Dayal Singh who was the part of family of Mangat Singh at the time of allotment, entitled to inherit the property besides Pritam Singh who has also been shown to be the family member of Mangat Singh.
22. Accordingly, the writ petition is allowed and the impugned order dated 05.02.2019 passed by the respondent no. 1 is set-aside. As a corollary to the acceptance of writ petition and setting aside of the impugned order, the order dated 14.01.2017 passed by the Tehsildar Ramgarh is upheld. The mutation attested in consequence of order dated 14.01.2017 is also upheld.
23. The writ petition along with all connected CMs is disposed of on the above lines.

(Moksha Khajuria Kazmi)
Judge

Jammu.
11.12.2025
Amjad lone, Joint Registrar/Secy.

Whether the order is speaking : Yes

Whether the order is reportable: Yes/No