

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

WP(C) No. 996/2025

Abdul Karim

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

Through: Mr. C. B. Slathia, Advocate.

**Vs**

Additional Deputy Commissioner with  
Powers of Commissioner Agrarian  
Reforms and others

..... Respondent(s)

Through:

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

**ORDER**  
**(28.04.2025)**

1. The petitioner-Abdul Karim came to prefer an agrarian appeal under the Agrarian Reforms Act, 1976 before the Additional Deputy Commissioner with the powers of Commissioner Agrarian Reforms, Jammu thereby challenging mutation dated 15.09.1983 attested under section 8 of the Agrarian Reforms Act, 1976 with respect to land measuring 03 kanals 19 marlas compromising khasra No. 598 in village Sungal, tehsil Akhnoor, district Jammu.

2. Said appeal, while pending service of the contesting respondent, namely, Mohd. Sharief, came to be dismissed for non-prosecution in terms of an order dated 10.04.2023 for seeking restoration of which the petitioner preferred an application which too has come to suffer dismissal in terms of an order dated 05.03.2025 leaving the petitioner non-suited his cause and left with no other alternate and efficacious remedy other than seeking judicial review under article 226 of the Constitution of India.

**3.** The appellate authority of the Additional Deputy Commissioner (with the Powers of Commissioner Agrarian Reforms), Jammu in its order dated 05.03.2025 has come forward with the reasoning that restoration application was filed after a long gap of 16 months with effect from order dated 10.04.2023.

**4.** Learned counsel for the petitioner submits that the petitioner-Abdul Karim is a senior citizen of 75 years of age and for him to pursue his matter in appeal before the appellate authority of the Additional Deputy Commissioner (with the Powers of Commissioner Agrarian Reforms), Jammu by his physical presence and persuasion on each and every date of hearing was not feasible as he is a resident of tehsil Akhnoor, district Jammu and, as such, was dependent upon his counsel engaged in the matter to pursue the case and, therefore, for an act of default on the part of his counsel, he should not have been left penalized and non-suited.

**5.** The substantive justice outweighs the procedural protocols and, as such, the appellate authority of the Additional Deputy Commissioner (with the Powers of Commissioner Agrarian Reforms), Jammu ought to have been a little more considerate in considering the plea of the petitioner for seeking restoration of his appeal by having consideration of overall facts and circumstances of the case and realities of the life related to the litigation which comes to be filed on the revenue/agrarian side of the jurisdiction before the

adjudicatory/appellate authorities which do not follow strict regime of hearing of cases as otherwise done in civil/criminal courts.

6. Therefore, this court sets aside order dated 05.03.2025 passed by the Additional Deputy Commissioner (with the Powers of Commissioner Agrarian Reforms), Jammu and hereby orders restoration of the appeal filed by the petitioner. In case the appeal is time barred and the application for condonation of delay is yet to be considered then the appellate authority of the Additional Deputy Commissioner (with the Powers of Commissioner Agrarian Reforms), Jammu shall, after putting the contesting respondent No. 4-Mohd. Sharief to due notice, consider the application for condonation of delay at the first instance and proceed in the matter, accordingly.

7. The petition is, thus, disposed of in the light of the above.

8. Copy of this order be provided by the petitioner to the respondent No. 1- Additional Deputy Commissioner with the Powers of Commissioner Agrarian Reforms, Jammu for notice and compliance.

**(RAHUL BHARTI)**  
**JUDGE**

**JAMMU**  
**28.04.2025**  
*Shivalee*