

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

WP(C) No. 875/2021
CM No. 3620/2021

**Mohd. Bashir, age 78 years,
S/O late Mohd. Hafiz Malik
R/o Village Dodaj,
Tehsil Darhal District Rajouri**

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

Through: Mr. Prithvi Raj Drora, Advocate

Vs

**01. The Union Territory of J&K,
Th. its Commissioner/Secretary
Revenue Department,
Civil Secretariat, Jammu**

**02. The Tehsildar Darhal,
District Rajouri**

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(20.05.2025)

01. The cause of action which brought the petitioner to come up with the present writ petition filed on 22.04.2021 was issuance of impugned **Communication No. 08/382 dated 31.03.2021** by the Tehsildar (Assistant Collector, 1st Class) Darhal in terms whereof the Tehsildar (Assistant Collector, 1st Class) Darhal called upon the petitioner to remove the alleged encroachment obtaining in the form of shop constructed at the site of khasra No. 981 'Shamlat Deh Kabaristan' (Graveyard).

- 02.** The grievance of the petitioner is that without affording any opportunity of hearing to him by calling upon to submit response to the allegation of being an encroacher of land in khasra no. 981, the Tehsildar (Assistant Collector, 1st Class) Darhal straightway held the petitioner to be an encroacher liable for removal and that is where the impugned order gets vitiated.
- 03.** The plea of the petitioner in his writ petition is well-meaning and well-placed as even in the reply filed to the writ petition it has not been stated that the petitioner was first called upon to state his position in the case in relation to the allegation of being an encroacher on the 'Shamlat Deh Kabaristan' (graveyard).
- 04.** In the light of this limited scope of grievance of the petitioner, this writ petition is **disposed of** with a direction to Tehsildar (Assistant Collector, 1st Class) Darhal that the impugned **Communication No. 08/382 dated 31.03.2021** to be reckoned as a notice to the petitioner for appearing before him and stating his claim vis-à-vis land in khasra No. 981 in terms of the alleged encroachment and thereupon to proceed to take a call upon on the merits of the case and claim.
- 05.** Needful exercise to be done by Tehsildar (Assistant Collector, 1st Class) Darhal within a period of three

months from the date of certified copy of this order be delivered to him by the petitioner upon his appearance before him i.e. on **02.06.2025**.

- 06.** Tehsildar (Assistant Collector, 1st Class) Darhal upon appearance of the petitioner before him to restore the matter with respect to the subject matter of the impugned notice intending the removal of the petitioner from khasra No. 981 'Shamlat Deh Kabaristan' (Graveyard) land.
- 07.** Upon inquiry to be conducted after affording opportunity of hearing and reply to the petitioner, the Tehsildar (Assistant Collector, 1st Class) Darhal to complete the inquiry and pass a final order a copy whereof to be forwarded to the Deputy Commissioner, (District Magistrate), Rajouri.
- 08. *Disposed of.***

(RAHUL BHARTI)
JUDGE

JAMMU
20.05.2025
SUNIL