

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

**WP(C) No. 1077/2025
CM No. 2564/2025**

Birbal Sharma & Anr.

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

Through: Mr. Vijay Parihar, Advocate

Vs

Deputy Commissioner, Jammu & Ors.

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG

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

**ORDER
(02.05.2025)**

- 01.** The petitioners are aggrieved of an extra-legal intervention of the Deputy Commissioner, Jammu and Sub Divisional Magistrate, Akhnoor, in terms whereof the petitioners find themselves exposed to prospect of their dispossession from land measuring eight kanals falling under khasra No. 106 min situated at Janti Jakhari, ward No. 3, panchayat Tarkwal, tehsil Akhnoor district Jammu, which is alleged to be in their possession as being displaced persons.
- 02.** The petitioners submit that before approaching the Deputy Commissioner, Jammu, with an application seeking direction to SDM, Akhnoor, and SDPO, Akhnoor,

to eliminate the encroachers namely the petitioners, the respondent No. 5 had approached the Custodian Evacuee Property, Jammu with a petition seeking restraint against the petitioners from interference in his possession with respect to land measuring eight kanals falling under khasra No. 106 min situated at Janti Jakhari, Ward No. 3, Panchayat Tarkwal, tehsil Akhnoor district Jammu, in which the court of Custodian Evacuee Property, Jammu by virtue of an order dated 28.05.2024 restrained the petitioners till filing of objections by them in response to the respondent's case.

03. Learned counsel for the petitioners submits that the respondents cannot be allowed to sail in two boats exploiting two different jurisdictions to attain the object of restraining the petitioners vis-à-vis land measuring eight kanals falling under khasra No. 106 min situated at Janti Jakhari, Ward No. 3, panchayat Tarkwal, tehsil Akhnoor district Jammu.

04. Learned counsel for the petitioners submits that respondent No. 2-Sub Divisional Magistrate, Akhnoor, who has been assigned the application of the respondent No. 5 so submitted before the Deputy Commissioner, Jammu, is calling upon the petitioners and conveying

them that petitioners shall vacate themselves from the possession of the land in reference.

05. This writ petition is disposed of with a direction to the respondent No. 2-Sub Divisional Magistrate, Akhnoor to invite the objections of the petitioners' to the application so referred to him by the Deputy Commissioner, Jammu by reference to the respondent and also to take into consideration the fact that Custodian Evacuee Property, Jammu is already seized of the matter *inter-se* respondent and the petitioners with respect to the same very land for the same very purpose, and then recommend the outcome back to the Deputy Commissioner, Jammu for an appropriate order to be passed by Deputy Commissioner, Jammu to whom the respondent actually approached for seeking indulgence.

06. It is reminded to the Sub Divisional Magistrate, Akhnoor that it is only in accordance with law that matter of possession and dispossession of a person from a land or immoveable property is supposed to take place and accordingly, an authority dealing with an application of a person if filed in relation to a matter of possession or dispossession from an immoveable property, then same is required to be examined as to whether the authority has the jurisdiction to act in the matter or not as being part

of the protocol of law in accordance with which an order for possession or dispossession of a person from a immoveable property is supposed to take place.

- 07.** The writ petition is accordingly, **disposed of**.
- 08.** A certified copy of this order be submitted by the petitioners to Sub Divisional Magistrate, Akhnoor for his notice and compliance.

(RAHUL BHARTI)
JUDGE

JAMMU
02.05.2025
SUNIL

