

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

WP(C) No. 1166/2025
CM No. 2762/2025

Mohd. Sadiq aged 60 years, ...Appellant(s)/Petitioner(s)
S/o Fateh Mohd. (deceased) alias
Fattah, resident village Shiendara of
Tehsil Haveli, district Poonch.

Through: Mr. Rameshwar Prasad Sharma,
Advocate.

Vs

1. Union Territory of Jammu & Kashmir through
Commissioner/Secretary, Revenue Department,
Civil Secretariat, Jammu.
2. Divisional Commissioner, Jammu.
3. Collector, Deputy Commissioner, Jammu.
4. Tehsildar, Haveli.
5. Asst. Commissioner (Rev), Poonch.

.....Respondent(s)

Through:

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

ORDER
(09.05.2025)

1. In terms of mutations No. 880 & 881 dated 25.08.2014 attested by the Assistant Commissioner (Revenue), Poonch, the petitioner claims to have been vested with rights as tenants-at-will with respect to land comprised in khasra No. 126 of mauza Shiendara, tehsil Havelli, district Poonch.
2. The purported cause of action for the petitioner to come up with the present writ petition is that in terms of an order No. DCP/SQ/2022-23/1672-75 dated 27.02.2023 of the Deputy Commissioner/Collector, Poonch, the mutations No. 880/881

have been held and declared to be un-maintainable and non-cognizable in terms of para-104 of the Standing Order No. 23-A and declared as void *ab-initio*.

3. The petitioner's grievance is that the Deputy Commissioner (Collector), Poonch has passed the order No. DCP/SQ/2022-23/1672-75 dated 27.02.2023 without affording an opportunity of hearing to the petitioner by making a misplaced reliance and reference to the judgment of the Hon'ble Supreme Court of India in the case of **"Escorts Farms Ltd. Vs. the Commissioner"** 2004 SCC 281.
4. The petitioner is, thus, coming forward with the present writ petition to impugn the order No. DCP/SQ/2022-23/1672-75 dated 27.02.2023.
5. Given fact that the Deputy Commissioner (Collector), Poonch has exercised power as revenue officer in setting aside mutations No. 880/881 related to the petitioner, as such, the petitioner has the remedy of appeal available at his end under the J&K Land Revenue Act, Svt. 1996 which left unexhausted would be a block in the way of the petitioner to maintain the present writ petition.
6. Therefore, learned counsel for the petitioner seeks to withdraw the present writ petition with liberty granted to avail remedy of the appeal before the Financial Commissioner, Revenue J&K against the order No. DCP/SQ/2022-23/1672-75 dated 27.02.2023, with a prayer that since the impugned order was

passed at the back of the petitioner, as such, the delay in filing the appeal beyond prescribed period shall not come in the way of the petitioner before the Financial Commissioner, (Revenue), J&K.

7. This petition is disposed of as withdrawn with liberty granted to the petitioner to avail and exercise right of appeal before the Financial Commissioner, (Revenue), J&K within a period of one month from the date of passing of this order.
8. The application for condonation of delay as may accompany the appeal to be filed, be considered by the learned Financial Commissioner (Revenue), J&K by bearing in perspective and consideration the fact as to whether the petitioner was accorded/extended any opportunity of appearance and objection by the Deputy Commissioner (Collector), Poonch or not in passing the impugned order and, accordingly, to consider the condonation of delay application of the petitioner for the sake of doing substantial justice.
9. Disposed of.

(RAHUL BHARTI)
JUDGE

JAMMU
09.05.2025

Shivalee

Whether the order is speaking:	Yes/No
Whether the order is reportable:	Yes/No