

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

CM(M) No. 128/2025
CM Nos. 2816/2025 & 2817/2025

Smt. Kanta Devi, Age 66 years Appellant(s)/Petitioner(s)
D/o Lt. Sh. Suneet Singh,
Wd/o Ltd. Sh. Koushal Singh,
R/o Bagla Morh, Rahya Samba,
A/p Karandi, Tehsil & District
Samba.

Through: Mr. Saket Rathore, Advocate.

Vs

1. Vijay Singh, S/o Lt. Sh. Anchal Singh,
R/o Rahya, Tehsil Vijaypur, District Samba.
2. Tehsildar, Vijaypur.
3. Shakti Singh, S/o Lt. Sh. Anchal Singh.
4. Ayodhya Devi, W/o Lt. Sh. Anchal Singh.
5. Pooja Devi, D/o Lt. Sh. Anchal Singh.
6. Swaran Singh, S/o Lt. Sh. Gian Singh.
7. Shanti Devi, D/o Lt. Sh. Gian Singh.
8. Bimla Devi, D/o Lt. Sh. Gian Singh.
9. Sheela Devi, D/o Lt. Sh. Gian Singh.
All residents of Rahya, Bagla, Tehsil Vijaypur, District Samba.
.....Respondent(s)

Through:

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

ORDER
(13.05.2025)

1. The Assistant Collector 1st Class, (Tehsildar), Vijaypur, district Samba in a case on file No. RD0050000018696 instituted on 17.07.2014 titled **“Kanta Devi Vs. Vijay Singh and others”** for the partition of the land bearing khasra No. 4252/1493 and 1879 of Khewat No. 24 & 30 in the village Bagla Morha Rahya, came to pass a final order dated 12.04.2025 acting in exercise of

jurisdiction under section 105 & 117 of the J&K Land Revenue Act, Svt. 1996 read with J&K Partition Rules, 1970 thereby ordering the partition of the land in reference and holding the applicant-Kanta Devi entitled to her share out of total land of 30 kanals, out of which the applicant-Kanta Devi's share came to be worked out in the order itself.

2. The order dated 12.04.2025 so passed by the Assistant Collector 1st Class, (Tehsildar), Vijaypur, district Samba amounted to a civil court decree in terms of section 111-A of the Land Revenue Act, Svt. 1996 and as per the deeming provision of section 112 of the Land Revenue Act, Svt. 1996 was rendered appealable as a decree and the appeal being maintainable either to the District Judge or the High Court as the case may be.

3. One of the non-applicants, namely, Vijay Singh came to prefer an appeal by reference to section 112 of the J&K Land Revenue Act, Svt. 1996 before the appellate court of the Principal District Judge, Samba from where the appeal came to be transferred to the Additional District Judge, Samba for disposal.

4. The petitioner herein, namely, Kanta Devi as being the applicant at whose instance the partition proceedings were undertaken and culminated in passing of the appealable order dated 12.04.2025, had put herself on caveat before the court of the District Judge, Samba and that is how upon transfer of the appeal preferred by the respondent No. 1-Vijay Singh, the

petitioner herein came to be notified by the Additional District Judge, Samba to appear in the matter in the appeal on 17.04.2025 on which date the petitioner is said to have caused appearance along with her counsel.

5. The petitioner is aggrieved that by virtue of an order dated 07.05.2025, the court of Additional District Judge, Samba has come to direct the operation of the order dated 12.04.2025 of the Assistant Collector 1st Class, (Tehsildar), Vijaypur, district Samba to be kept in abeyance till next date of hearing which is 24.05.2025 though subject to the admission of the appeal.

6. The grievance of the petitioner is that her caveat stands frustrated by the issuance of the order dated 07.05.2025 by learned Additional District Judge, Samba without affording the petitioner an opportunity of objection as being a caveator.

7. Accordingly, the petitioner is, thus, invoking supervisory jurisdiction of this Court under article 227 of the Constitution of India with respect to the indulgence so granted by the Additional District Judge, Samba by denying the petitioner as the being caveator, an opportunity of opposing the motion made by the respondent No. 1 in seeking interim direction in his favour with respect to the order impugned.

8. Considering the limited scope of the petitioner's grievance, this petition is disposed of with a direction unto the Additional District Judge, Samba to consider the right of the objection of the

petitioner with respect to grant of interim order/relief being solicited by the respondent No. 1-Vijay Singh in connection with the appeal preferred by him and dispose of the caveat of the petitioner by passing an order afresh with respect to operation of the impugned order dated 07.05.2025.

9. Needful to be done at the end of the Additional District Judge, Samba within a period of one week from the date a certified copy of this order is received by him.

10. Disposed of.

JAMMU
13.05.2025
Shivalee

