

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

Case: WP(C) No. 1235/2022

Ghulam Mohd. and Anr.

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

Through :- Mr. Mohd. Arif, Advocate

Vs

U.T. of J&K and Ors.

.....Respondent(s)

Through :- Ms. Priyanka Bhat, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. Vishal Bharti, Dy. AG
Mr. K.S. Puri, Advocate

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
13.08.2025

01. While the matter was being argued, learned counsel for the petitioners fairly concedes to the objection raised by Mr. K.S. Puri, learned counsel for respondent No. 10 that the petitioners while filing the instant petition has suppressed the material fact of filing a suit seeking permanent prohibitory injunction before the Court of learned Sub-Judge, Chief Judicial Magistrate, Poonch, which came to be dismissed as withdrawn and even no liberty was granted to the plaintiff for filing fresh proceedings.

02. Mr. K.S. Puri has also raised an objection that the petitioners have deliberately concealed the aforesaid material facts and have not come to this Court with clean hands and thus, he prays that the instant petition be dismissed

for not coming to the Court with clean hands and suppressing the material fact of filing the aforesaid suit, which has a direct bearing in the instant matter as well.

03. Learned counsel for the petitioners when confronted with the aforesaid objection fairly concedes that this was an inadvertent mistake on part of the counsel, who has drafted the instant petition and, accordingly, he prays that he be given liberty to withdraw the instant petition with a liberty to file better petition disclosing all the material facts.

04. He further submits that since the suit, which has already been preferred by the petitioner (plaintiff therein) has already been dismissed and thus, as on date, there is no legal impediment to seek appropriate remedy by filing fresh petition.

05. The instant petition, however, on the other hand has been filed by the petitioners, wherein, the petitioners have sought a direction against the respondents from evicting the petitioners from the land comprising of khasra Nos. 850, 848 & 849 measuring 16 kanals 2 marlas situated at Chajjla Tehsil Mankote District, Poonch, as the petitioners claim to be owners of the land.

06. Ordinarily, in light of the objections raised by learned counsel for respondent No. 10, this Court ought to have dismissed the instant petition on merits, as the petitioners have not come to this Court with clean hands and have suppressed the material facts of filing the suit before the trial Court with a view to mislead this Court and to get a favourable order but in the peculiar facts and circumstances, this Court deems it proper to take a lenient view in the light of

admission of the petitioners with respect to the suppression of material fact which as per the petitioner was a bonafide mistake/error and not a deliberate attempt to mislead this Court. The interim order has not been extended by this Court vide order dated 04.08.2025 meaning thereby the interim protection granted to the petitioners has been vacated.

07. Learned counsel for the petitioners has not contested the aforesaid objection raised by learned counsel for respondent No. 10 rather he fairly conceded the objection by admitting that it was the fault on part of the petitioners and the erstwhile counsel who has drafted the petition, who has not disclosed the factum of filing of the suit before this Court, which could have been a bonafide error on part of the erstwhile lawyer.

08. Since learned counsel for the petitioners has fairly conceded to the objection raised by learned counsel for respondent No. 10 and has sought withdrawal of the instant petition with a view to file fresh one disclosing all the material facts, this Court in the peculiar facts and circumstances of the case and also to do substantial justice deems it proper to accede to the prayer of the learned counsel for the petitioners.

09. In the aforesaid backdrop, the prayer of learned counsel for the petitioners, is allowed and the writ petition is dismissed as withdrawn with liberty to the petitioners to file fresh petition. However, the delay and laches shall not come in the way of the petitioners to file the instant petition, as the petitioners have been agitating their cause before this Court through the medium of the instant petition.

10. The writ petition is ***dismissed*** as withdrawn along with all connected application(s).

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
13.08.2025
Mihul

