

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

Case No. :-WP(C) No. 1674/2023
CM No. 3918/2023

**Raj Kumar Sharma, Ex-Sarpanch,
Aged 57 years, S/o Bihari Lal,
R/o Trilokpur Jammu.**

.....Petitioner(s)

Through: Mr. Sanchit Verma, Advocate.

Vs

1. UT of J&K Th.

..... Respondent(s)

**Commissioner Secretary,
Revenue Jammu/Srinagar;**

**2. Jammu Development Authority Th.
its Vice Chairman, Panama Chowk,
Jammu;**

3. Deputy Commissioner, Jammu;

**4. Additional Deputy Commissioner,
Law & Order, Jammu;**

**5. Superintending Engineer, PWD (R&B)
Circle Jammu;**

**6. Chief Engineer, System & Operation
Wing, PDD Jammu.**

Through: Ms. Sagira Jaffer, Advocate vice
Mrs. Monika Kohli, Sr. AAG for
R-1, 3 & 4.
Mr. Ravinder Gupta, AAG for
R-5 & 6.
None for R-2.

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER(ORAL)

01.03.2025

1. Petitioner through the medium of instant petition, which has been filed in a representative capacity on behalf of the Inhabitants of Villages Seohra, Kharia, Ranjeet Pura, Tarlokpur, Kharbuja and Khanpur, Tehsil & District Jammu has sought the following reliefs:-

(i) WRIT OF MANDAMUS thereby directing the respondents maintain the usage and free access to the existing public road i.e. 40 feet wide road situated opposite Yog Ashram near Revenue Complex Gol Gujaral to Tulsi Vihar Colony.

(ii) Further, restraining respondent No. 2 from interfering into the smooth functioning of 40 ft.

wide road connecting Yog Ashram near Revenue Complex Gol Gujarai to Tulsi Vihar colony.

(iii) WRIT OF PROHIBITION, thereby prohibiting respondent No. 2 from encroaching upon public road opposite Yog Ashram to Tulsi Vihar Colony, Sehora, Gol Gujral, Jammu and restraining them from closing/narrowing public road.

(iv) Any other writ, order or direction as this Hon'ble Court deems fit and proper in the facts and circumstances of the present case."

2. The very foundation in the instant petition is that the public road, which is being encroached upon, is 40 feet wide opposite Yog Ashram near Revenue Complex Gol Gujral to Ranjeet Pura Shamshan Ghat.

3. It is the case of the petitioner that the public road is centrally located route accessible to all the inhabitants of the area, which is used by even adjoining areas as well and there is specific allegation against the respondent No. 2, i.e., Jammu Development Authority (*for short, "JDA"*) that the JDA has been encroaching the public road and using it for their own convenience and making hundreds of villagers inaccessible to main city.

4. It is the further case of the petitioner that the inhabitants of all six villages, i.e., Sehora, Kharia, Rajneet Pura, Tarlokpur, Kharbuja and Khanpur use the public road on daily basis, which is their lifeline and the respondent No. 2 by trying to block/close the said public road, has seriously impacted the life of the inhabitants of the aforesaid villages and other habitants of the said area.

5. The record reveals that the instant petition was listed before this Court on 26.06.2023, on which date, notice was issued and respondent No. 4-Additional Deputy Commissioner, Law & Order was directed to furnish a detailed action taken report of the Committee comprises of four officers in pursuance to order dated 19.10.2022.

6. By virtue of the said order, a Committee comprises of four officers was constituted, the details of which is as under:-

- (i) Enforcement Officer concerned, JMC;

- (ii) Naib Tehsildar, Jammu West;
- (iii) Naib Tehsildar, JDA Zone A &
- (iv) AEE, PWD (R&B), Division-3 was constituted to visit the spot and to open the road in Village Sehora, Tehsil Jammu West and the Committee was further directed to remove the encroachment, if any.

7. The order further reveals that it was incumbent on part of the Committee to have removed the said encroachment, if any, by visiting the spot and the Committee was further directed to submit the factual report within seven days positively. Since the report was not submitted, this Court vide order dated 26.06.2023 directed the respondent No. 4 to furnish a detailed action taken report of the said Committee constituted in pursuance to order dated 19.10.2022. Since the order passed by this Court dated 26.06.2023 was not complied with, this Court vide order dated 18.08.2023 granted further time to the respondents to file the said action taken report positively.

8. Ms. Sagira Jaffer, Assisting counsel to Mrs. Monika Kohli, Sr. AAG submits that she has filed action taken report in terms of order dated 26.06.2023, which is not on file. Copy of the same has been furnished to this Court, which is taken on record.

9. From a bare perusal of the action taken report so filed, it is evident that the demarcation was carried out and it was found that the JDA developed a colony on spot and allotted plots to the vendees. The respondents in the said action taken report have further submitted that the road is having width of 35 ft. and no illegal construction or encroachment, has been found on road and on spot. However, the boundary walls found constructed on allotted plots by JDA as per site/key plan along the road.

10. Heard learned counsel for the parties at length and perused the record.

11. The only prayer, which has been raised in the instant petition by the petitioner is that the respondent No. 2-JDA has encroached the public road and, accordingly, the instant petition has

been preferred, wherein a direction has been sought against the said respondent from interfering into the smooth functioning of 40 ft. wide road situated opposite Yog Ashram near Revenue Complex Gol Gujaral to Tulsi Vihar Colony, with a further writ of prohibition, prohibiting the respondent No. 2 from encroaching upon public road opposite Yog Ashram to Tulsi Vihar Colony, Sehora, Gol Gujral, Jammu.

12. Thus, after perusal of the record and action taken report, the very foundation of the petitioner in the instant petition falls flat, which is contrary to record. The Committee constituted in this regard, has visited the spot and has found that no illegal construction or encroachment was found on the road and on the spot.

13. Thus, in light of the stand taken by the respondents in the action taken record, the instant petition does not survive and the same is, accordingly, dismissed, as the allegation, which has been leveled by the petitioner in the instant petition is contrary to record. However, dismissal of the instant petition will not preclude the petitioner to approach the competent authority by way of representation in case, any hindrance is caused to the inhabitants of the aforesaid villages to use the public road for their own convenience. However, it is made clear that if any such representation is filed on the alleged accrual of cause of action, the same shall be decided by the competent authority within a period of two weeks from the date, the said representation is filed and in case, the decision goes against the petitioner or any person aggrieved, he/they will be at liberty to work out the appropriate remedy, as envisaged under law.

14. For the foregoing reasons, the instant petition is found bereft of any merit and the same is, accordingly, **dismissed**, along with connected application.

(Wasim Sadiq Nargal)
Judge

Jammu
01.03.2025
Ram Krishan

Whether the order is speaking?
Whether the order is reportable?

Yes/No
Yes/No