

Regular List
Serial No. 06

IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH
AT JAMMU

WP(C) No.1931/2019

Date of pronouncement : 28.10.2025

Uploaded on : 06.11.2025

Dina Nath

....Petitioners

Through:- Mr. Ankur Sharma, Advocate

V/s

**The J&K Special Tribunal &
Ors.**

.....Respondents

Through:- Ms. Monika Kohli, Sr. AAG
Mr. D S Saini, Advocate

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
JUDGMENT (ORAL)

1. The institution of this writ petition dating back to year 2018 is addressed against an outcome of exercise of jurisdiction under the Agrarian Reforms Act, 1976 starting from passing of an order dated 08.07.1997 thereby disposing of two appeals, both preferred by the State through the Assistant Revenue Attorney with the Deputy Commissioner, Doda whereby attestation of two mutations i.e., mutation No.242 dated **20.12.1987** under section 4 and mutation No.247 dated **12.11.1989** under section 8 of the Agrarian Reforms Act, 1976 with respect to land measuring

8.12 kanals comprised in survey no.381 of village Chili Pain, tehsil Gandoh came to be assailed.

2. The attestation of said two mutations took place in favour of two persons namely Sh. Ram Lal and Sh. Nand Lal, sons of Bhagat Ram, thereby constituting said two persons to be the owners of land forming subject matter of said two mutations. Mutation No.**242 of 1987** was passed by Naib Tehsildar, Jakyas.
3. The terms on which attestation of mutation under section 4 of the Agrarian Reforms Act, 1976 takes place is the extinguishment of ownership rights of an absentee land-owner who in the present case admittedly was Gulam Khan, father of the contesting respondent No.3.
4. Admittedly in 1971, khasra girdawari relatable to the aforesaid khasra numbers did not mention Ram Lal and Nand Lal as being in cultivating possession of the land in reference, be it as a tenant or otherwise.
5. Thus, attestation of mutation under section 4 of the Agrarian Reforms Act, 1976 by Naib Tehsildar, Jakyas was not a simplicitor act of proceeding upon the admitted state of facts and applying the law thereupon in terms of section 4 of the Agrarian Reforms Act, 1976 but changing factual situation and then fitting

the law under section 4 of the Agrarian Reforms Act, 1976.

6. Naib Tehsildar, Agrarian Reforms under regime and dispensation of the Agrarian Reforms Act, 1976 at the relevant point of time was not competent and authorized to effect any change in 1971 khasra girdawari relatable to the land in reference.
7. **Rule 14** of the Agrarian Reforms, 1977 provides the procedure and competence for attesting mutations. **Rule 4** of the Agrarian Reforms, 1977 provides the procedure for dispute resolution related to khasra girdawari entries.
8. Naib Tehsildar, Jakyas, as a revenue officer, was at no any point of time ever empowered to deal with any dispute or dispute relatable to 1971 khasra girdawari entries.
9. This position is reinforced in **Rule 14** when in its proviso it is provided that no Naib Tehsildar shall attest any disputed mutation or any other such mutation where change or correction of any entry of khasra girdawari is involved, unless he is empowered for the said purpose by the Commissioner appointed under section 18 of the Agrarian Reforms Act, 1976.
10. Thus, mutation No. **242 of 1987** attested by Naib Tehsildar, Jakyas, by first changing the actual physical entry of 1971 in khasra girdawari record was

in excess of his jurisdiction by every stretch of factual and legal reference and was, therefore, a nullity in the eyes of law, on the basis whereof no further effect could be given or generated in the form of attestation of mutation under section 8 of the Agrarian Reforms Act.

11. Acting on the said premise, the Commissioner (Agrarian Reforms), Doda by virtue of order dated **08.07.1997** came to set aside the said two mutations No.242 and 247 and also directed that an inquiry be conducted into the matter against the delinquent revenue officials. Mutation Nos. 242 & 247 came to be set aside.
12. In view of the disposal of appeals so preferred by the State, the appeals preferred by the respondent No.3- Mohd. Shabir, son of recorded owner Gulam Khan assailing the said two mutations, were deemed to be disposed of accordingly, meaning thereby even the appeals of respondent No.3 were allowed against said order dated **08.07.1997**.
13. The legal representatives of Sh. Ram Lal i.e., the petitioner herein preferred a revision under section 21 of the Agrarian Reforms Act, 1976 on **30.03.2001** i.e., after a period of almost three years' delay before the J&K Special Tribunal, Jammu on its file No.**STJ/247/2016** on **07.12.2016** which resulted in

its adjudication in terms of a judgment dated **01.10.2014** dismissing the revision, holding it without any merit.

14. Rehearing of said revision was sought by the petitioner again by filing an application on file No.**STJ/247/2016** on **07.12.2016** which again came to suffer rejection vide an order dated **26.02.2019** leading to the institution of the present writ petition.
15. This Court is under no iota of doubt that filing of application for rehearing of review petition otherwise disposed of by virtue of an order dated **01.10.2014** was done by the petitioner with an objective to cover up the delay and laches which otherwise would have confronted the petitioner in the event of filing the writ petition in December 2016 in assailing order dated 01.10.2014. So, in order to gather a purported cause of action to come up with the writ petition, an endeavor was made to seek rehearing of the matter which resulted in passing of order dated **26.02.2019** leading to the filing of the writ petition on **20.05.2019**.
16. The principal order being assailed is the revisional order dated **01.10.2014** by reference to which the institution of the writ petition came to take place after a gap of more than four year plus.

17. The very fact that mutation No.242 of 1987 attested by the Naib Tehsildar, Jakyas was per se a nullity, as such, the order passed by the Appellate Authority is nothing but doing the formality of declaring the nullity as nullity and therefore, the petitioner or for that matter, his predecessor-in-interest Sh. Ram Lal along with Sh. Nand Lal, the co-beneficiary of two mutations, ought to have resorted to proper legal course of action before the competent authority in case if they reckoned that they had the claim of seeking correction of 1971 khasra girdawari entry relatable to land forming subject matter of said two mutations. That option was for said two persons i.e., Sh. Ram Lal & Sh. Nand Lal to encash but that was not done and has still not been done with the petitioner also following the footsteps of the same default.

18. This Court finds no illegality in two orders so passed by the Commissioner, Agrarian Reforms, Doda as well as by the J&K Special Tribunal, as such, writ petition is dismissed.

19. Before parting with this judgment, this Court would make it clear that in the event of the petitioner making any application before the competent authority with respect to correction of 1971 entry, the

same to be dealt on its merits, without being influenced by any observation made of this Court.

20. ***Disposed of.***

**(RAHUL BHARTI)
JUDGE**

**JAMMU
28.10.2025**
Sneha

Whether the judgment is speaking: Yes/No

Whether the judgment is reportable: Yes/No

