

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

WP(C) No. 1809/2022
CM No. 5061/2022

Mohd. Latief and ors.

.....Appellants

Through: Mr. Shafiq Ahmed Wani, Advocate

Vs

Additional Deputy Commissioner, Jammu and ors.

..... Respondents

Through: Ms. Chetna Manhas, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. Rakesh Chargetra, Sr. Advocate
with
Mr. Abhishek Verma, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
07.10.2025

1. The petitioners through the medium of present petition have challenged order dated 02.07.2022 passed by learned Commissioner, Agrarian Reforms (Additional Deputy Commissioner) Jammu (hereinafter referred to as "appellate authority"), whereby the appeal filed by the petitioners against order dated 24.01.1984 passed by Tehsildar Akhnoor on mutation No. 555 with respect to land measuring 25 kanals 02 marlas falling in khasra No. 121, 125, 126, 128 and 134 situated at village Mawa Karora, Tehsil Akhnoor, District Jammu has been dismissed.

2. It appears that mutation No. 555 dated 24.01.1984 under Section 3-A of the Agrarian Reforms Act was attested by Tehsildar Akhnoor in respect of the aforesaid land in favour of

predecessor-in-interest of private respondents on 24.01.1984. The said mutation is bearing reference to allotment order No. 338 dated 23.04.1968. The petitioners herein challenged the aforesaid mutation order before the appellate authority by contending that the mutation has been attested at the back of the petitioners and their predecessors on the basis of non-existent allotment order. It was claimed by the petitioners that they are the lineal descendants of Imam Din who was the original owner of the land in respect of which the mutation has been attested and after his death, it has devolved upon his descendants. It was further pleaded that the petitioners and their predecessor-in-interest are in continuous possession of the land in question and none of the predecessors of the petitioners have ever migrated to Pakistan or become an evacuee.

3. The learned appellate authority while rejecting the appeal of the petitioners observed that remedy to the appellants is to approach Custodian Evacuee Properties, Jammu for getting the allotment of the land in question in favour of private respondents cancelled. It was further observed that the said authority lacks jurisdiction to determine the dispute in view of the provisions contained in the J&K State Evacuees' (Administration of Property) Act, 2006 Svt. 2006.

4. The petitioners have challenged the impugned order on the grounds that there is no order of allotment by any competent

authority in favour of the private respondents in respect of the land in question. It has been further contended that there was no question of allotment of land in favour of the private respondents because none of the predecessor-in-interest of petitioners had ever migrated or shifted from the ancestral home at Akhnoor. It has been further contended that the petitioners and their predecessor-in-interest are in continuous possession of the land in question but the Tehsildar has attested the mutation in favour of private respondents fraudulently, inasmuch as, the land in question is not evacuee land. It has also been submitted that the mutating authority has passed the order of mutation without satisfying itself about the requirements of law as the private respondents and their predecessors have failed to submit any proof of being possessed of any land in PoK. It has also been contended that the mutation has been attested by the Tehsildar without adhering to the principles of natural justice.

5. The private respondents have contested the writ petition by filing their reply to the same. In their reply, it has been submitted that the petitioners have failed to place on record any document to show that they are successors-in-interest of Imam Din. It has been further contended that no mutation of inheritance has been attested in favour of the petitioners which shows that the property in question was evacuee property after the original owner Imam Din had become an evacuee. It has been

further submitted that the petitioners have not placed on record any Shajra Nasab prepared by the revenue authorities to show that they are successors-in-interest of Imam Din.

6. The private respondents further submitted that their predecessor-in-interest was a displaced person and he was allotted the land in question in lieu of land which he left in PoK and allotment was made by virtue of order dated 03.04.1968 by the competent authority whereafter, possession of the land in question was handed over to predecessor-in-interest of the private respondents which is clearly recorded in khasra girdawari of the year, 1968. The private respondents have also placed on record copies of khasra girdawaris for the year, 1962, 1967-68 and 2022 to show that they are in possession of the land in question. It has been submitted that mutation No. 555 under Section 3-A of the Agrarian Reforms Act was rightly attested in favour of the private respondents by virtue of order dated 24.01.1984 passed by the Tehsildar.

7. I have heard learned counsel for the parties and perused record of the case.

8. So far as the land in question is concerned, as per the revenue record placed on record by the parties before this Court as also before the appellate authority, the same is shown as evacuee property and it is shown to have been allotted in favour

of predecessor-in-interest of the private respondents in terms of allotment order No. 338 dated 23.04.1968.

9. Learned counsel for the petitioners has submitted that despite directions, the private respondents could not place on record copy of the said allotment order before the appellate authority, therefore, it has to be presumed that no such allotment order was made in favour of the private respondents. I am afraid the submission of learned counsel for the petitioners cannot be accepted because the allotment of the land in question in favour predecessor-in-interest of the private respondents as a displaced person in terms of Government Order No. 578-C of 1954 is consistently reflected in the revenue record pertaining to the land in question. There is a presumption of correctness attached to the entries in the record of rights/annual record maintained in terms of provisions of J&K Land Revenue Act. This is clear from the provisions contained in Section 31 of the said Act. In the absence of any material in rebuttal, it can safely be stated that the land in question was allotted to predecessor-in-interest of the petitioners as a displaced person.

10. The contention of the petitioners is that they are successor-in-interest of original owner of land Imam Din, who had never migrated to Pakistan and he was not an evacuee. It is being claimed by the petitioners that because the land in question was not evacuee land, therefore, mutation under Section 3-A of

the Agrarian Reforms Act could not have been attested in favour of the predecessor-in-interest of the petitioners.

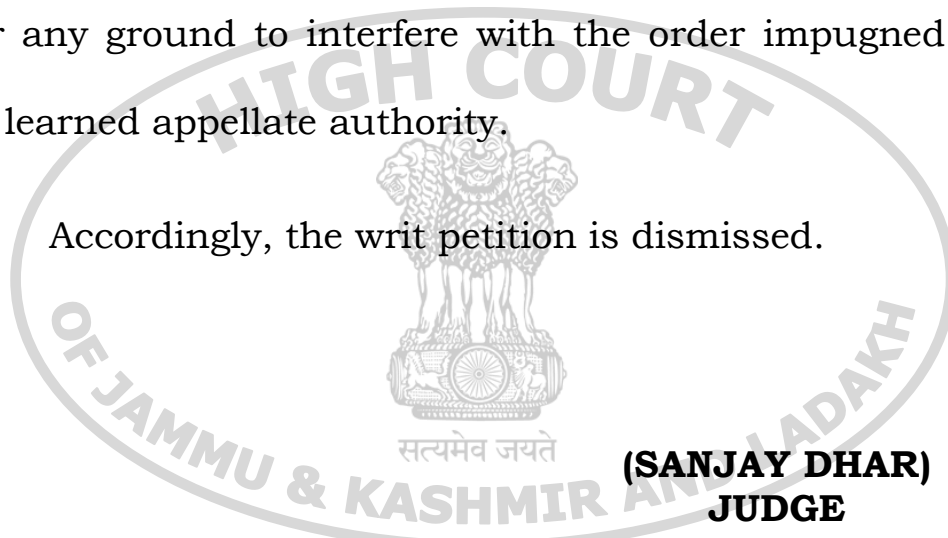
11. The revenue record placed on record by the parties before the appellate forum and before this Court would clearly reveal that original owner of the land, Imam Din was an evacuee and the land in question was evacuee land. As already stated, there is a presumption of correctness attached to the entries reflected in the record of rights/annual record. This presumption is rebuttable. In order to rebut the said presumption, the petitioners are required to establish that none of their predecessor-in-interest had migrated to Pakistan so as to render the land in question as evacuee land.

12. The question whether the petitioner on the basis of the material that he proposes to produce would succeed in rebutting the said presumption can be determined only by an authority under the J&K State Evacuees' (Administration of Property) Act, 2006 Svt. 2006 and not by the Commissioner, Agrarian Reforms. As per Section 8 of the said Act, the claim that a particular property is not an evacuee property can be considered by the Custodian. Similarly, as per Section 14-A of the said Act, an evacuee or his heir can seek restoration of an evacuee property before the authority prescribed under the Act i.e the Custodian. In terms of Section 14 of the said Act, the Custodian is authorized to restore the evacuee property to an evacuee or his heirs. So a

proper legal framework has been provided under the J&K State Evacuees' (Administration of Property) Act, 2006 Svt. 2006 to determine the issues with regard to entitlement of a person to restoration of evacuee property or even to decide as to whether or not particular property is evacuee property.

13. In the aforesaid circumstances, the learned appellate authority has rightly declined to go into the merits of the claim of the petitioners leaving it open to them to approach Custodian, Evacuee Property, Jammu. For these reasons, there does not appear any ground to interfere with the order impugned passed by the learned appellate authority.

14. Accordingly, the writ petition is dismissed.



(SANJAY DHAR)
JUDGE

JAMMU
07.10.2025

Tarun/PS

Whether the order is speaking?	Yes
Whether the order is reportable?	No