

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

Case:- **OWP No. 1027/2018**

- 1. Rattan Chand, age 65 years
S/o Late Sh. Choor Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 2. Smt. Rano Devi, age 60 years
D/o Late Sh. Choor Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**

.....Petitioner(s)

Through: Mr. R. K. S. Thakur, Advocate

Vs

- 1. Karam Chand
S/o Late Sh. Santoo
R/o village Ladhwal
Tehsil Batote (new), District
Ramban**
- 2. Sh. Puran Chand
S/o Late Sh. Luchhan
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 3. Sh. Piyaar Chand
S/o Sh. Ram Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 4. Sh. Gopal Dass
S/o Late Sh. Dewan Chand
R/o village Ladhwal
Tehsil Batote (new), District
Ramban**
- 5. Sh. Parladh Chand
S/o Late Sh. Dewan Chand**

....Contesting Respondent(s)

**R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**

- 6. Sh. Parkash Chand
S/o Late Sh. Dewan Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 7. Sh. Subash Chander
S/o Late Sh. Dewan Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 8. Sh. Madan Chand
S/o Late Sh. Faqir Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 9. Sh. Ashok Chand
S/o Late Sh. Faqir Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 10. Sh. Chain Chand
S/o Late Sh. Faqir Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 11. Sh. Pardeep Chand
S/o Late Sh. Faqir Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 12. Sh. Prem Chand
S/o Late Sh. Faqir Chand
R/o Village Ladhwal
Tehsil Batote (new), District
Ramban**
- 13. Tehsildar (settlement), Ramban**

14. Tehsildar, Territorial, Ramban

15. Tehsildar, Batote

**16. Joint Financial Commissioner
with powers of Financial
Commissioner, Revenue, J&K
Government, Jammu**

.....Respondent(s)

Through: Ms. Divya Ojesvi, Advocate

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

ORDER
(04.07.2025)

01. An adjudication done by the Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu in terms of an order dated 26.04.2018 passed on file No. 329/Jt.FC-AP and file No.10/Jt.FC-AP rendered the two petitioners herein, namely, Rattan Chand and Rano Devi, who figured as the contesting respondents in the said two adjudications aggrieved to come up with the present writ petition seeking writ jurisdiction of this Court by way of *writ of certiorari* to quash impugned order dated 26.04.2018 so passed by the Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu.

02. The adjudication before the Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu was solicited by two persons, namely, Karam Chand

& Puran Chand, who are the respondents No. 1 & 2 herein, thereby invoking revisional jurisdiction under section 15 of the Jammu & Kashmir Land Revenue Act, Svt., 1996 in assailing two orders passed by the Tehsildar Settlement, Ramban relatable to the partition of khewat No. 2 & khewat No. 6 of village Ladhwal, tehsil & district Ramban.

03. Revision petition on file No.10/Jt.FC-AP was filed on 23.04.2010 against an order dated 25.01.2008 passed by the Tehsildar Settlement, Ramban, whereas revision petition on file No. 329/Jt.FC-AP was filed on 14.11.2013 against an order dated 13.04.2007 again passed by the Tehsildar Settlement, Ramban.

04. Both the revision petitions by way of a common order dated 26.04.2018 came to be allowed, when the learned Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu came up with following reasoning :-

“Written objections, which are exhaustive in nature, have been filed on behalf of the respondents on the ground that the impugned orders have been passed by the Tehsildar Settlement Ramban and Tehsildar Ramban in rightful manner and these orders deserve to be implemented in right earnest. But the petitioners with a view to gaining time and delaying the process of delivery of possession to the respondents, have dragged the case to long drawn litigation. The petitioners were fully aware of these orders but they did not challenge these orders through the process of appeal before the appellate court

and have now come in revision as an after thought, simply to harass the respondents. Both the revision petitions are not, therefore, maintainable and deserve to be dismissed in the interest of justice.

I have paid due consideration to the arguments made by the learned counsel for the parties, examined the written submissions made by the petitioners and written objections brought on record on behalf of the respondents and other material available on the files. It appears from the record that possession of the respondents over the land is much below their recorded share. They initially moved the matter for delivery of possession of the land for making land of their recorded share good. The matter remained under process at different stages and finally Assistant Commissioner (Revenue) Doda took it a case of partition of land and asked Tehsildar Settlement, Ramban to do the needful under rules. The Tehsildar without following the set procedure prescribed under the Land Revenue Act and Partition Rules, issued a direction to Naib Tehsildar, Batote on 13.04.2007 to deliver the possession of the land to Rattan Chand and Rano Devi the applicants before him. This was followed by another order dated 25.01.2008 issued by Tehsildar Ramban under which description of khasra Nos was also given for delivering possession to the extent of 73 Kanals and 09 Marlas of land to the respondents herein. As a rule, possession of land in such matters could be delivery to the interested person by the Tehsildar only through the process of partition proceedings.

As regards the partition proceedings, a set procedure of mandatory nature has been prescribed under the Land Revenue Act followed by the Partition Rules. But provisions of these rules and necessary provisions made under different Sections of the Land Revenue Act have not been followed at all.

In this view of the matter, both the orders cannot be said to be judicious orders passed under the Partition Rules

after hearing the parties and all other concerned and following other pre-requisites.

In view of these reasons, I find sufficient force in both the revision petitions. These revision petitions are, therefore, allowed and orders dated 13.04.2007 and 25.01.2008 passed by the Tehsildar Settlement, Ramban and Tehsildar Ramban are set aside and case remanded to Tehsildar Batote for denovo enquiry in light of the mandatory provisions of the Land Revenue Act and the Partition Rules with regard to partition of land, hearing the parties and other concerned, and passing fresh orders in presence of the parties and other concerned.

Interim orders, if any, issued in the matter stand withdrawn. File be consigned to record after due completion.”

05. The grievance of the petitioners herein is that by a very generalized and sweeping observation the learned Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu came to upset the entire partition exercise undertaken by the Tehsildar Settlement, Ramban without actually identifying as to which are the provisions of law or for that matter the set procedure which was not followed in the matter of adjudicating the partition claim of the petitioners with respect to the estate of khewat No. 2 & khewat No. 6 of village Ladhwal, tehsil & district Ramban.

06. A bare perusal of the impugned order would show that the submissions of the learned counsel for the petitioners to this aspect carries persuasive content in the sense that the learned

Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu was exercising the revisional jurisdiction and, therefore, he had the facility of the entire revenue record relatable to the matter in issue before him to come up with the observations and findings as to how and where the impugned partition proceedings were not in tune with the provisions of law or for that matter, as observed by the learned Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu the set procedure prescribed under the Land Revenue Act and the Partition Rules.

07. In addition, the learned Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu while exercising revisional jurisdiction also omitted to make reference to the time interval between the passing of the impugned orders and the date of filing of the revision petitions by the respondents No. 1 & 2 which as per learned counsel for the petitioners herein was agitated by the petitioners as being the contesting respondents that the revision petition was suffering delay and laches, particularly, when both the respondents No. 1 & 2 had participated in the partition proceedings fully conscious of the state of things happening in relation to the partition proceedings in the hands of the Tehsildar Settlement, Ramban.

08. Be that as it may, this Court is inclined to grant indulgence in the matter by holding that the impugned order dated 26.04.2018 is bereft of reasoning and is loaded only with generalized and sweeping observations without any factual connect with record of the case and, therefore, is no order that too of adjudicatory nature in the eyes of law and prejudices the case of the petitioners as well.

09. Thus, this Court sets aside the order dated 26.04.2018 passed by the Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu by directing the learned Financial Commissioner Revenue, J&K to recall the aforesaid two files No. 329/Jt.FC-AP and No.10/Jt.FC-AP from the Joint Financial Commissioner (with powers of Financial Commissioner), Revenue J&K, Jammu and resume the adjudication of said two revision petitions on merits including the preliminary plea of the petitioners with respect to the delay and laches.

10. In the meantime, it is reported that the respondent No. 2 – Puran Chand who was the petitioner No. 2 in the said two revision petitions has expired. Therefore, the legal representatives of the respondent No. 2 would be entitled to implead themselves in the said two revision petitions to co-join the respondent No. 1 –

Karam Chand, who figures as the petitioner No. 1 in the said two revision petitions.

11. Parties are directed to appear before the learned Financial Commissioner Revenue, J&K, Jammu on **11.08.2025** along with certified copy of this order.

12. It is made clear for the facility of the learned Financial Commissioner Revenue, J&K, Jammu that the judgment of the Hon'ble Division Bench of this Court in the case of "**Ab. Hamid and others Vs Divisional Commissioner, Jammu & others**" would not come in the way of the revision petitions so preferred before him given the fact that both came to be filed in the year 2010 & 2013 when the position of law relatable to revenue revision was not settled in the manner as in the judgment of the Hon'ble Division Bench of this Court in the case of "**Ab. Hamid and others Vs Divisional Commissioner, Jammu & others**" in **LPA No. 193/2019**.

13. Interim direction operating in the revision petitions shall also start operating.

14. The learned Financial Commissioner Revenue, J&K, Jammu is directed to adjudicate and dispose of the matter within a period of four months from the first date of resumption of hearing before him given the fact that the parties have been

litigating with respect to the matter with effect from 1997 onwards.

15. ***Disposed of.***

**(RAHUL BHARTI)
JUDGE**

**JAMMU
04.07.2025
SUNIL**

Whether the order is speaking : Yes / No

Whether the order is reportable : Yes / No

