

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

OWP No. 771/2004

1. Maninder Kour, D/O Harbajan Singh, . Petitioner(s)
9-B Auqaf Complex, Gandhi Nagar, Jammu
2. Inderjeet Singh, S/O Manohar Singh,
11-B Auqaf Complex, Gandhi Nagar, Jammu.
3. Vijay Ahuja, S/O Shri Manohar Lal Ahuja,
12-B Aquaf Complex, Gandhi Nagar, Jammu
4. Raghbir Singh, S/O S. Hardit Singh,
6-B Auqaf Complex, Gandhi Nagar, Jammu.
5. Mohd. Aslam Quereshi, S/O Firoz Din
R/O 17-B, Auqaf Complex, Gandhi Nagar, Jammu.
6. Sanjay Gupta, S/O Shri Kuldeep Gupta,
R/O 28-A Aquaf Complex, Gandhi Nagar, Jammu.
7. Veena Mahajan, W/O Subash Mahajan,
6-B Aquaf Complex, Gandhi Nagar, Jammu
8. Raj Kumar Gupta, S/O Guranditta Mal,
227 Sector 1, Nanak Nagar, Jammu.
9. Pawan Gupta, S/O C. R. Gupta,
R/O Sector 11, Plot No.26 Nanak Nagar, Jammu.
10. Ravnish Gulati, S/O Wazir Chand Gulati,
10-A Auqaf Complex, Gandhi Nagar, Jammu.
11. Tanveer Akhter, S/O Sheikh Ameen,
11-A Aquaf Complex, Gandhi Nagar, Jammu
12. Padma Gupta, W/O K. C. Gupta,
20-B Auqaf Complex, Gandhi Nagar, Jammu.
13. Satya Bhama Dubey, W/O Sudesh Kumar Dubey,
13-B Aquaf Complex, Gandhi Nagar, Jammu.
14. Smt. Nandni Bakshi, W/O Goutam Bakshi,
14-B Aquaf Complex, Gandhi Nagar, Jammu.
15. Amarjeet Singh Sethi, S/O S. Makhan Singh Sethi,
R/O H. No. 40-A Sector-1, Nanak Nagar, Jammu.
16. Gargi Sharma, W/O Vinod Sharma,

3-B Aquaf Complex, Gandhi Nagar, Jammu.

17. Mohit Malik, S/O K. L. Malik,
4-B Aquaf Complex, Gandhi Nagar, Jammu
Through Attorney Holder
Khalid Mehmood Bhatti,
S/O Master Fazal Din Bhatti.
18. Dr. Jyoti Singh, W/O Dr. Dara Singh,
10-B Aquaf Complex, Gandhi Nagar, Jammu.
19. Rajnesh Dewan, S/O Rajinder Kumar,
R/O 819 Krishna Nagar, Jammu.
20. Shiv Kumar Gupta, S/O Yash Pal Gupta,
R/O 18/1-A Est. Ext. Trikuta Nagar, Jammu.
21. Sundeep Jain, S/O Sh. Ram Parshad Jain,
17-A Aquaf Complex, Gandhi Nagar, Jammu.
22. Sheikh Amjad, S/O Sheikh Ghulam Murtaza,
Through Chander Mohan Sharma,
S/O Krishan Chand Sharma,
Attorney Holder,
1-A Aquaf Complex, Gandhi Nagar, Jammu.
23. Anil Kumar, S/O Chaman Parkash,
13-A Aquaf Complex, Gandhi Nagar, Jammu.
24. Krishan Lal Gupta, S/O Sh. Gauri Mal,
R/O Sector 3 Extn. Trikuta Nagar, Jammu.
25. Kasturi Lal Gupta, S/O Sh. Rakh Ram,
R/O H. No. 61, Extension 1-A,
Trikuta Nagar, Jammu.
26. Balraj Gupta, S/O Shri Chajju Ram,
R/O H. No. 46, Partapgarh Mohalla, Jammu.
27. Karam Chand, S/O Munshi Ram,
R/O H. No. 92 Wazarat Road, Jammu.
28. Verinder Arora, S/O Nirmal Singh,
R/O Nanak Nagar, Jammu.
29. Subash Chander, S/O Sh. Mela Ram,
R/O Bhagwati Nagar, Jammu.
30. Chuni Lal, S/O Shiv Ram,
Shop No. 4, Daira Umar Shah,
R/O Residency Road, Jammu.

Through: Mr. Mohit Vaid, Advocate

Vs

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| <ol style="list-style-type: none"> 1. State of Jammu & Kashmir
Through Chief Secretary,
Civil Secretariat, Srinagar. 2. Commissioner/Secretary,
Law Department,
Civil Secretariat, Srinagar. 3. Commissioner/Secretary,
Haj & Aquaf Department,
Civil Secretariat, Srinagar. 4. Administrator,
Aquaf Department, Jammu. | <p>..... Respondent(s)</p> |
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Through: Ms. Monika Kohli, Sr. AAG for R-1&2.
Mr. S. S. Nanda, Sr. AAG for R-3.
Mr. Ayjaz Lone, Advocate for R-4.

CORAM: HON'BLE MR. JUSTICE MA CHOWDHARY, JUDGE

ORDER

10.07.2025

1. The petitioners, claiming to be tenants/allottees and holding possession over the shopping complex properties of respondents situate at Auqaf Market Gandhinagar, Jammu, besides different locations, and apprehending that they may be evicted from the properties held by them legally, in view of the new enactment of the J&K Wakafs Act, 2001, allegedly being ultra vires to the Constitution, through the medium of this petition, prayed for the following relief(s):

- “(a) *An appropriate writ, order or direction in the nature of writ of certiorari quashing Jammu and Kashmir Wakafs Act, 2001 being ultra vires the Constitution.*
- (b) *An appropriate writ, order or direction in the nature of writ of mandamus commanding the respondents not to take or initiate any action under the said Act against the tenants/allottees of the Wakafs property.*

(c) *An appropriate writ, order or direction in the nature of writ of certiorari quashing all the actions, proceedings, procedures and measures initiated by the respondents under the aforesaid Act against the allottees/tenants of the Wakafs property including the petitioners.”*

2. Objections stand filed on behalf of respondents 1 to 3 as well as respondent no.4 separately, contradicting the assertions made in the petition and prayed that the same be dismissed.

3. Learned counsels for the respondents, submit that the petition has been rendered infructuous, in view of the repealing of the J&K Wakafs Act, 2001, sought to be declared as ultra vires the Constitution and as a result quashed, in terms of the Jammu & Kashmir Reorganisation Act 2019 having been enacted by Parliament of India. In this backdrop, it was contended that this petition is liable to be dismissed, having been rendered infructuous.

4. Learned counsel for the petitioners, did not join the issue, stating that no action had been initiated against the petitioners, however, they apprehending to be evicted had challenged the J&K Wakafs Act, whose provisions were anti tenants/lessees and also in contraventions to the constitutional provisions.

5. In the year 2019, existing State of Jammu & Kashmir was divided into two Union Territories of Jammu & Kashmir and Ladakh, with enactment of J&K Reorganisation Act 2019 (Act No.34 of 2019). Chapter XIV of the Act deals with Legal and Miscellaneous Provisions. Section 96 of this Chapter/Act provided as under:

“96. Power to adapt laws

For the purpose of facilitating the application in relation to the successor Union Territories, of any law made before the appointed day, as detailed in [Fifth Schedule to this Act], the Central

Government may, before the expiration of one year from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.”

Table -1 of 5th Schedule of the Act, deals with Central Laws made applicable to the UTs of J&K and Ladakh. At Serial No.104, The Wakafs Act, 1995 with the requisite amendment was made applicable to the twin UTs, whereas 3rd Table dealt with State Laws including Governor’s Act which were repealed in both the new UTs. The J&K Wakafs Act, 2001 finds its place at Sr. No.152 in this Table. The J&K Reorganisation Act was enforced w.e.f. 31.10.2019 as notified vide S.O. 2889(E) of 2019 dated 09.08.2019 issued by Department of Jammu & Kashmir Affairs of the Ministry of Home Affairs.

6. With application of Central Law, The Wakafs Act, 1995 and repealing of J&K Wakafs Act, 2001, in the UT of J&K in the year 2019, the petition on hand, to declare and quash the J&K Wakafs Act, 2001 as unconstitutional, becomes redundant and infructuous, particularly, when no action was alleged to have been taken against the petitioners in terms of the Act, sought to be quashed.

7. Viewed thus, the petition is dismissed, having been rendered infructuous, along with application(s). Interim direction, if any, vacated. No order as to costs.

(MA Chowdhary)
Judge

Jammu
10.07.2025
Raj Kumar