

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

Case No. WP(C) No. 2797/2025

CM No. 6448/2025

Cav No. 2150/2025

Date of pronouncement:- 08.10.2025

Date of uploading:- 10.10.2025

Mohd. Qayoom

.....Petitioner(s)

Through: Mr. K.S Puri, Advocate.

Vs

UT of J&K and ors.

..... Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Sageera Jafar, Advocate
Mr. Rakesh Chargetra, Sr. Advocate with
Mr. Umar Shakeel, Advocate

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

(ORAL)

1. The petitioner, through the medium of present petition has challenged order dated 10.09.2025 passed by Financial Commissioner, Revenue, J&K (Commissioner, Agrarian Reforms) J&K, whereby appeals against mutation No. 76 dated 24.10.1982 and mutation No. 87 dated 30.11.1982 attested under Sections 4 & 8 of J&K Agrarian Reforms Act with regard to estate Naili, Tehsil Manjakote District Rajouri has been dismissed both on merits as well as on the ground of limitation.

2. Issue notice to the respondents. Ms. Sageera Jafar, Advocate accepts notice on behalf of respondent Nos. 1 to 3. Mr. Umar Shakeel, Advocate, who is on caveat, accepts notice on behalf of respondent Nos. 4 to 6.

3. Heard and considered.

4. It seems that mutation No 76 dated 24.10.1982 in respect of estate Naili came to be attested in terms of Section 4 of the J&K Agrarian Reforms Act, whereafter mutation No. 87 dated 30.11.1982 came to be attested in respect of the said land in favour of the private respondents. The Mutations relate to land measuring 06 kanals covered under khasra No. 99 and the same have been attested in the name of Ahmed Din, father of the private respondents and his brother, Faqir Mohd, who is not a party to the present proceedings nor he was party to the proceedings before the appellate authority.

5. It was contended by the petitioner/appellant before the appellate authority that the mutations have been attested at the back of his predecessor-in-interest in violation of principles of natural justice and in violation of Standing Order No. 23-A. It was also contended that the land in question is evacuee property as some of the recorded owners are evacuees and that there is no relationship of landlord and tenants between the parties as such,

mutations under Sections 4 & 8 of the Agrarian Reforms Act could not have been attested in favour of predecessor-in-interest of the private respondents.

6. On the question of limitation, the appellant/petitioner pleaded that he was not aware about attestation of the impugned mutations and that the same came to his knowledge only 10 days prior to the filing of the appeal and as such, the period of limitation would start from the date of knowledge.

7. Learned appellate forum, after hearing the parties and perusing the record, came to the conclusion that the petitioner/appellant herein has been unable to justify the delay of about 42 years in filing the appeal. On merits, the appellate forum observed that as per the extracts of khasra girdawari of 1971 which is crucial date for vesting of rights under the Agrarian Reforms Act, the land in question was recorded in the ownership column in the name of predecessor-in-interest of petitioner/appellant whereas, in cultivation column, it was recorded in the name of predecessor-in-interest of the private respondents. Thus, the predecessors-in-interest of the private respondents were entitled to be declared as owners of the land in question by operation of the provisions of Sections 4 & 8 of the Agrarian Reforms Act. It was also observed by the learned Commissioner that the contention of the petitioner/appellant that

the land in question is evacuee land is not substantiated by any documentary evidence.

8. The petitioner, through the medium of present petition, has challenged the impugned order by raising the same grounds which he had raised before the appellate forum. Besides this, the petitioner has also contended that the petitioner had filed written arguments before the appellate forum but the said arguments have not been taken into consideration. It has also been contended that father of the petitioner had remained in cultivating possession of the land in question in kharief 1971, whereas, rest of his co-sharers had migrated to Pakistan in the year, 1965. Therefore, the provisions of Agrarian Reforms Act were not applicable to the present case. It has been contended that in respect of the land belonging to a person who has migrated to Pakistan in the year, 1965, the provisions of the Agrarian Reforms Act could not have been applied. It has been further contended that Custodian Evacuee Property was a necessary party to the proceedings and attestation of mutation in his absence is in contravention of the provisions of J&K State Evacuees'(Administration of Property) Act, 2006. It has also been contended that Jamabandi of the year, 1970-71 which clearly showed the possession of father of the petitioner in kharief 1971, could not have been ignored by the attesting officer and the same

could have been corrected only by way of an appeal filed by the aggrieved person before the District Collector in terms of Section 32 of the Land Revenue Act.

9. Before proceeding to decide the merits of this petition, it would be appropriate to deal with the issue of limitation, as admittedly, the appeal against the mutation orders dated 24.10.1982 and 30.11.1982 has been filed after a period of about 42 years.

10. As per Section 22 of the Agrarian Reforms Act, the period of limitation which has been prescribed is 60 days from the date of order appealed from. In terms of Sub-section (2) of Section 20 of the said Act, the provisions of Limitation Act have been made applicable to appeals under the said Act. Thus, Section 5 of the Limitation Act which provides for condonation of delay in filing applications/appeals etc. is applicable to the appeals filed under the Agrarian Reforms Act.

11. The petitioner along with his appeal before the Financial Commissioner, filed an application for condonation of delay in filing the appeal, copy whereof has been placed on record by the petitioner. In the said application, it has been averred that the petitioner came to know about the attestation of the impugned mutation orders 10 days back whereafter, he applied for issuance

of certified copy on 02.08.2024 and obtained the same on 07.08.2024. The petitioner is stated to have consulted his Advocate whereafter, the appeal came to be filed on 23.08.2024. Thus, according to the petitioner, there has been no delay on his part in filing the appeal as limitation period for filing the appeal would commence from the date of knowledge of orders of mutation.

12. If we have a look at the provisions contained in Section 22 of the Agrarian Reforms Act, it clearly provides that limitation period shall be 60 days in case of an appeal from the date of order appealed from and not from the date of knowledge of such order. Therefore, the contention of the petitioner that limitation period would start running against him from the date he came to know about the impugned orders of mutation is misconceived.

13. The next question that falls for determination is as to whether the petitioner has carved out a sufficient cause within the meaning of Section 5 of the Limitation Act that would entitle him to condonation of delay in filing the appeal. In this regard, the contention of the petitioner as projected in the application for condonation of delay is that mere delay and laches should not be allowed to defeat his genuine claim as such, a lenient view is required to be taken in the matter. Although, the petitioner has not pleaded in his application for condonation of delay that the

impugned orders were passed behind the back of his predecessor-in-interest and as such, he was not having knowledge about the same, yet this contention has been projected by the petitioner in the present petition and according to the learned counsel, this contention was raised by the petitioner by way of written arguments as well before the appellate authority.

14. Before determining as to whether the aforesaid explanation tendered by the petitioner would fall within the parameters of the phrase “sufficient cause” as mentioned in Section 5 of the Limitation Act, it would be necessary to understand as to what is meant by the phrase “sufficient cause” as appearing in Section 5 of the Limitation Act.

15. The Supreme Court in the case of **Shivamma (Dead) By Lrs. Vs. Karnataka Housing Board and ors; 2025 LiveLaw (SC) 899** has, while interpreting the phrase “sufficient cause” as contained in Section 5 of the Limitation Act, held as under:-

“123. From above, it is manifest that that the phrase “sufficient cause” in Section 5 of the Limitation Act is an expression of elastic import, incapable of precise definition, yet not without boundaries. Its purpose is to empower courts to advance the cause of justice by preventing genuine litigants from being shut out on account of unavoidable delays. At the same time, it is

equally clear that the phrase is not a charter for indolence or a device to revive stale claims that the law of limitation otherwise extinguishes.

124. The burden to establish sufficient cause lies upon the party seeking condonation, and the court must be satisfied that the cause is real, bona fide, and free of negligence. Sufficiency of cause is to be determined contextually, on the totality of circumstances, with due regard to the conduct of the applicant and the prejudice caused to the opposite party. The inquiry is not mechanical but principled, resting on the dual pillars of bona fides and diligence.

125. The expression “sufficient cause” is not itself a loose panacea for the ill of pressing negligent and stale claims. The expression is to be construed with justice-oriented flexibility so as not to punish innocent litigants for circumstances beyond their control.

126. Courts must not condone gross negligence, deliberate inaction, or casual indifference, for to do so would undermine the maxim interest reipublicae ut sit finis litium and destabilise the certainty that limitation law seeks to secure.

127. The expression “sufficient cause” must be construed in a manner that advances substantial justice while preserving the discipline of limitation.

The courts are not to be swayed by sympathy or

technical rigidity, but rather by a judicious appraisal of whether the applicant acted with reasonable diligence in pursuing the remedy. Where explanation is bona fide, plausible, and consistent with ordinary human conduct, courts have leaned towards condonation. Where negligence, want of good faith, or a casual approach is discernible, condonation has been refused.”

16. From the aforesaid ratio laid down by the Supreme Court, it is clear that while expression “sufficient cause” has to be construed liberally so as to advance the cause of justice, yet it should not amount to condoning the gross negligence or deliberate inaction on the part of a litigant. It is clear that while keeping in mind the justice oriented approach, the substantive law of limitation as contained in Section 3 of the Limitation Act should not be allowed to be defeated. It is to be noted that law of limitation is based on public policy that there should be an end to litigation after a certain period of time. It forecloses the right of remedy rather than the right itself. Therefore, while considering the plea for condonation of delay, the Court has to exercise its discretionary power in a manner so as to advance the cause of justice but at the same time, the discipline of limitation has to be enforced.

17. Reverting back to the facts of the present case, the petitioner has pleaded that he came to know about the impugned mutation orders only 10 days prior to filing of the appeal. Mere submission that the petitioner had got knowledge of the impugned mutations on a particular date would constitute only a fact which has to be established in accordance with law in an application under Section 5 of the Limitation Act seeking extension of period of limitation. Only if, it is established that the petitioner came to know about the impugned mutation orders on a particular date and that he was not in knowledge of the said orders prior to the said date, it would constitute a sufficient ground for condonation of delay. Mere assertion of the petitioner in the application in this regard would not constitute to be a proved fact. In the instant case, the petitioner has not produced any material before the appellate authority or before this Court to establish his aforesaid assertion.

18. Apart from the above, if we have a look at the record of the case, the petitioner as well as the private respondents belong to the same village. The land in question has been in possession of the private respondents for the past so many years. As to why it did not occur to the petitioner to ascertain in what capacity, the private respondents were in possession of the said land when according to him, they have no right or interest in the said land,

defies the logic. The predecessor-in-interest of the petitioner during his lifetime never challenged the mutations and all of a sudden, one fine morning, it occurred to the petitioner that mutations are required to be challenged by way of an appeal after a lapse of 42 years. In these circumstances, his mere assertion that he came to know about mutation orders only 10 days back cannot be accepted.

19. The other contention raised by the petitioner is that his case is meritorious, therefore, technicalities of Limitation Act should not come in the way of substantial justice. In this regard, it is to be noted that Supreme Court in the case of **Pathapati Subha Reddy Vs. Special Deputy Collector; 2024 SCC OnLine SC 513** has clearly held that merits of the case are not required to be considered in condoning the delay. In the face of this statement of law, even if it is assumed that the petitioner may have merit in his case, the huge delay of 42 years in filing the appeal cannot be condoned.

20. It is a trite law that a writ Court, while exercising its power of judicial review of an order passed by a quasi judicial authority has to only satisfy itself as to whether the order passed by the authority below is not vitiated due to any material irregularity, want of evidence, extraneous considerations or failure to take into consideration any relevant fact or being

contrary to the law of land. In the present case, the learned Financial Commissioner, while refusing to exercise his discretion to condone the delay in filing the appeal has neither committed any material irregularity nor the same is based upon extraneous consideration. In these circumstances, it is not open to this Court to interfere in the impugned order passed by the Financial Commissioner, whereby it has refused to exercise the discretion of condoning the delay in filing the appeal. Thus, without going into the merits of the case, the writ petition deserves to be dismissed.

21. Accordingly, the writ petition is dismissed.

JAMMU
08.10.2025
Tarun/PS

(SANJAY DHAR)
JUDGE

Whether order is speaking: Yes

Whether order is reportable: No