

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

OWP No. 1632/2018

1. **Puneet Kumar, age 45 years**
2. **Sumeet Kumar, age 44 years**
Both sons of Late Shakti Kumar
R/o Gwari (Ghata), Tehsil
Bhaderwah
A/P Roopmani,
Enclave Patel Nagar,
Tallab Tillo, Jammu
3. **Vijay Lakshmi (Sharma), age 65**
years
W/o Late Shakti Kumar
R/o Gwari (Ghata), Tehsil
Bhaderwah
A/p Roopmani,
Enclave Patel Nagar,
Tallab Tillo, Jammu

.....Petitioner

Through: Mr. A.P. Singh, Advocate

Vs

1. **State of J&K**
Th. Joint Financial Commissioner (Revenue)
J&K Jammu.
2. **Anil Kumar**
3. **Alok Kumar**
4. **Arun Sharma**
All sons of Late Shiv Kumar
R/o H. No. 88, Sector-2, Channi Himmat,
Jammu
5. **Alka Sharma**
D/o Late Shiv Kumar
Respondents No. 2 to 5 residents of
Village Gwari (Ghata), Tehsil Bhaderwah

.....Respondents

Through: Ms. Nazia Fazal, Assisting Counsel vice
Mrs. Monika Kohli, Sr. AAG for R-1
Mr. Subodh Singh Jamwal, Advocate
for R-2, 3 & 5

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(28.07.2025)

01. Three (3) petitioners herein are 'successors-in-interest' of late Shakti Kumar being his two sons and widow.
02. Shakti Kumar was one of three sons of Smt. Chandrawati. From her husband Shri Ishwar Chand, said Smt. Chandrawati had three sons, namely, Shiv Kumar, Shre Kumar and said Shakti Kumar.
03. Shakti Kumar is said to have pre-deceased his mother-Smt. Chandrawati who was holding an estate in her own right inherited from her parental side.
04. Upon the demise of Smt. Chandrawati, a mutation of inheritance No. 1504 dated 04.11.1992 came to be attested whereby her estate went in three shares amongst her three sons with pre-deceased son-Shakti Kumar being represented by the petitioners as being his 'successors-in-interest'.
05. In the course of time after the attestation of said mutation No. 1504, Shiv Kumar S/o Smt. Chandrawati also expired leaving behind the two sons, namely, Anil Kumar and Alok Kumar who came forward with a revision preferred before the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu on 11.05.2018 thereby challenging the mutation

No. 1504 of 1992 relatable to inheritance of late Smt. Chandrawati.

- 06.** Said revision within two months of its institution came to be accepted by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu in terms of an order dated 20.07.2018 by setting aside the mutation No. 1504 of 1992 of village Gatha, tehsil Bhaderwah with a consequent remand to Tehsildar, Bhaderwah for a de novo enquiry and passing of fresh orders upon hearing of all the stakeholders.
- 07.** It is against this order dated 20.07.2018 passed by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu that the petitioners came forward with the present writ petition instituted on 27.08.2018.
- 08.** Post order dated 20.07.2018 passed by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu, the respondents No. 2 and 3 joined by the respondents No. 4 and 5 came forward with institution of a civil suit on 07.06.2019 against the petitioners herein on file No. 13/Civil before the court of learned District Judge, Bhaderwah thereby seeking a

decree of declaration with permanent prohibitory injunction read with mandatory injunction and also for recovery of compensation.

09. In the civil suit so filed by the respondents No. 2 to 5, a copy whereof has been shared by Mr. Subodh Singh Jamwal, learned Advocate appearing for the respondents No. 2 to 5 for the perusal of this Court, would show that one of the reliefs sought in the civil suit is for declaration to the effect that on the basis of family settlement mentioned in the plaint, only the plaintiffs i.e. respondents 2 to 5 are entitled to the land of Smt. Chandrawati as mentioned in the 'jamabandi' and that the present petitioners, figuring as defendants in the said civil suit, have no entitlement qua the suit land and on the basis of the said declaration being granted, the petitioners being not entitled to any compensation of the suit land otherwise acquired for Dandi Hospital by reference to khasra No. 2221 min (8 kanal and also 11 kanal) acquired by the Public Works Department (Roads & Buildings) and the share of compensation received by the petitioners to an amount of Rs. 10,70,447/- and Rs. 53,475/- be recovered from the petitioners and paid to the respondents No. 2 to 5.

10. It is being reported by Mr. A.P. Singh, learned Advocate for the petitioners that the aforesaid suit of the

respondents No. 2 to 5 has been rejected in terms of an **Order VII Rule 11 of the Civil Procedure Code, Svt. 1977** and an appeal under section **96 of the Civil Procedure Code, Svt. 1977** is also pending disposal before this very Court.

- 11.** Be that as it may, the fact remains that the respective parties with respect to the estate of Smt. Chandrawati came to be the subject matter of the civil suit and that would always have a precedence over any summary outcome relatable to attestation of a mutation or for that matter a revenue revision filed under the J&K Land Revenue Act, Svt. 1966 as in the present case the situation came to be.
- 12.** Given the fact that it is the respondents No. 2 and 3 who had preferred revenue revision before the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu and later on joined by the respondents No. 4 and 5 set up a declaration in a civil court, as such, the remand order passed by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu for Tehsildar, Bhaderwah to conduct de novo enquiry was rendered instantaneously infructuous and with that also rendered the very order dated 20.07.2018

passed by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu legally ineffective.

13. Even if the respondents No. 2 and 3 would not have ventured to file revenue revision before the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu under the J&K Land Revenue Act, Svt. 1966 still the subject matter of the revision petition preferred by the respondents No. 2 and 3 was amenable to adjudication in a civil suit and that would have constrained to respondents No. 2 to 3 to approach a civil court rather than to pursue the matter in a revenue revision and, therefore, the outcome of the revenue revision so preferred by the respondents No. 2 and 3 in the form of order dated 20.07.2018 would have always remained vulnerable to course correction before this Court under judicial review jurisdiction under Article 226 of the Constitution of India.

14. In the light of the aforesaid facts and circumstances, this Court sets aside the order dated 20.07.2018 passed by the Joint Financial Commissioner with powers of Financial Commissioner (Revenue) and Commissioner, Agrarian Reforms, J&K, Jammu without undertaking any further examination of the matter lest it causes prejudice

to either of the parties to the litigation in relation to the civil suit which shall always remain the final determiner of the rights of the parties to the subject matter property of Smt. Chandrawati be it in terms of succession by inheritance or by testamentary mode as the case may be.

15. The writ petition is accordingly, ***disposed of***.

(RAHUL BHARTI)
JUDGE

JAMMU
28.07.2025
SUNIL

Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No

