

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 28/2019[WP(C) 63/2019]
CM(242/2019[1/2019]) CM(419/2023).

MOHAMMAD MAQBOOL BUTT.

...Petitioner(s)

Through: Mr. S.A. Rathore, Advocate.

VERSUS

STATE OF J AND K AND ORS.

Through: Mr. Mohammad Younis, Assisting Counsel.
Ms. Nadia Abdullah, Assisting Counsel vice
Mr. Mohsin S. Qadri, Sr. AAG.

...Respondent(s)

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
25.09.2025

01. One-Abdul Rehman Butt S/o Suban Butt, originally a resident of Dandoosa, Baramulla is said to have become an evacuee during the disturbance of 1947 leaving behind his estate in Mouza Dandoosa, District Baramulla.

02. The estate of said **Abdul Rehman Butt** was identified to be located in khewat **No. 21**, khata **No. 64**, comprising khasra Nos. **242, 307, 350, 353, 357, 371, 427, 584, 408, 700, 709, 747, 830, 869, 891, 906, 942, 952, 969, 1039.**

03. The total extent of ownership land of said **Abdul Rehman Butt** which became evacuee property was **23.10 kanals**.

04. The aforesaid property came to be under the administration and management of the Custodian Authority in terms of Jammu and Kashmir State Evacuees (Administration of Property) Act, Svt., 2006.

05. It is in this state of said property that the writ petitioner herein **Mohammad Maqbool Bhat** (now deceased) had solicited allotment of evacuee land of Abdul Rehman Butt in his favour which came to take place in terms of an order **No. CG (EP) 161-62/89** dated **12.05.1989** for a period of ten years.

06. The allotment was of **6.15 kanal** of land located in khasra **Nos. 952, 969 and 1039**. The aforesaid land i.e., **6.15 kanal** allotted to the petitioner- **Mohammad Maqbool Bhat** related to one of the khasra numbers housing the evacuee property of **Abdul Rehman Butt**.

07. The original allotment of land in favour of the petitioner was meant for a period of ten years which came to be extended for another ten years in terms of Order **No. CG(EP) 585-99** dated **02.08.1999**.

08. On account of alleged acts of omission and commission on the part of the petitioner, as being allottee of the aforesaid evacuee property/land, the Custodian General, J&K vide an order No. **CG (EP) 757/2004/186 dated 27.09.2004** cancelled the lease allotment of the petitioner.

09. Aggrieved of said cancellation, the petitioner filed a revision before the Jammu and Kashmir Special Tribunal on file **No. STS/3574/2012** dated **18.12.2012** which came to be disposed of on **31.10.2017** by setting aside of the said order of the Custodian General regarding the cancellation of the petitioner's allotment/lease.

10. It appears that Custodian General, J&K reconciled with this outcome and therefore confirmed the status of the petitioner in settled occupation of the evacuee land allotted to him even after the expiry of next ten years of extended allotment. The petitioner was not subjected to any eviction from the said allotted piece of land.

11. The petitioner seems to have made number of applications to the concerned authorities staking his claim in a different capacity vis-à-vis the entire evacuee property related to **Abdul Rehman Butt**.

12. While the same were pending, the petitioner equipped himself with a Special Power of Attorney dated **12.12.2014** allegedly executed by the legal heirs/successors of **Abdul Rehman Butt**, all of whom being residents of Pakistan. This Special Power of Attorney was executed in Pakistan thereby purportedly appointing, nominating and constituting the petitioner as an attorney on behalf of the principals to deal with the entire evacuee property in its entirety of **Abdul Rehman Butt**.

13. It is in this context that the petitioner came forward with the present writ petition introducing himself more as an attorney holder rather than in his individual capacity as an allottee of evacuee property and this fact is borne out from the nature of the reliefs claimed in the writ petition.

14. During the pendency of the writ petition, the petitioner expired, as is referred in the order dated **19.12.2022**, which resulted in filing of an application **CM No. 419/2023** for bringing on record the legal representatives of the deceased petitioner on record and they being his sons, daughters and widow.

15. The death of the petitioner effectively meant that the writ purpose was lost to the petitioner's legal heirs/representatives as the benefit of the Special Power of Attorney executed in favour of the petitioner by the purported legal heirs of evacuee- **Abdul Rehman Butt** did not ensue to the benefit of the legal heirs of the writ petitioner as attorney.

16. Therefore, this writ petition should have been closed without even bringing the legal representatives of the deceased petitioner on record but it is never too late to amend the miss and this is what this Court is now doing by declaring this writ petition rendered infructuous on account of the death of the writ petitioner and accordingly, dismissing it.

17. Since, admittedly the legal heirs of the writ petitioner are in continuing use and occupation of the originally allotted **6.15 kanal** of land comprised in khasra Nos. **952, 969 and 1039** of Village Mouza Dandoosa, District Baramulla as such, their settled possession shall not be disturbed by the respondents No. 2 to 5 without adopting due course of law.

18. In case the legal representatives of the petitioner make any application for seeking regularization of allotment by reference to the petitioner, then the same shall be considered by the respondent Nos. 2 to 5, as the case may be, and dealt with and disposed of on merits.

19. Any pending representation made by the writ petitioner as well as by the legal heirs of the writ petitioner shall be read as part and parcel of the fresh representation to be made in this regard.

20. A fresh representation shall be made within a period of two months failing which the petitioners shall lose their right of even making the representation.

21. **Disposed of.**

(Rahul Bharti)
Judge

SRINAGAR
25.09.2025
Bisma Jan.