

S. No. 7

Regular List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 118/2019[WP(C) 323/2019]

GHULAM MOHAMMAD DAR (SENIOR CITIZEN)

...Petitioner(s)

Through: Mr. Z. A. Qureshi, Sr. Advocate with
 Ms. Rehana Fayaz, Advocate.

Vs.

STATE OF J AND K AND ORS. (HOME DEPARTMENT)

...Respondent(s)

Through: Ms. Nadia Abdullah, Advocate vice
 Mr. Mohsin Qadri, Sr. AAG.
 Mr. Luqman S. Dar, Advocate, for R-6 & 7.

CORAM:**HON'BLE MR JUSTICE RAHUL BHARTI, JUDGE****ORDER****04.04.2025**

1. The petitioner is an Advocate by profession and finds himself professionally embarrassed by an act on part of the Assistant Registrar, J & K Special Tribunal Srinagar in addressing a communication No. 1242/2018 dated 3rd October 2018 to the Senior Superintendent of Police (SSP) Crime Branch Kashmir Srinagar, thereby seeking registration of an FIR on the basis of a purported enquiry report enclosed with the communication which enquiry report allegedly implicated, without express reference to petitioner's name but by ample reference to him for having indulged in tampering of order dated 24th July 1996 passed by the Jammu & Kashmir Special Tribunal Bench II.
2. Five persons as petitioners came to file a revision petition before Jammu and Kashmir Special Tribunal Srinagar on file No. ST/2569

on 4th September 1995 thereby challenging an order dated 17th September 1992 passed by the Joint Commissioner Agrarian Reforms Kashmir, Srinagar related to mutation Nos. 1513/1 (sahet-kasht) dated 11th August 1982, 1535 dated 10th November 1982 and mutation number 1550 dated 30th April 1983 attested by Naib Tehsildar Pampore with respect to estate Drungbal Tehsil Pampore.

3. In the revision petition, there were twelve respondents. The title of the revision petition was “Jalla and others versus Ghulam Nabi and others”.
4. Said revision petition came to be disposed of by virtue of an order dated 24th July 1996 by passing a direction unto the Tehsildar Pampore to pass fresh orders under section 4 and 8 of the J & K Agrarian Reforms Act 1976 in consonance with law in the light of finding of the Commissioner after affording adequate opportunity to the parties for being heard.
5. After a gap of almost 21 years from the date of passing of order dated 24th July 1996 by Bench II of Jammu & Kashmir Special Tribunal Srinagar, the revision petitioners Jalla and others came forward with an application on file number JKS/4407/17 filed on 16th March, 2017, before Member, Bench-II of Jammu and Kashmir Special Tribunal Srinagar alleging that there was a tampering done with respect to the text of order dated 24th July 1996 by insertion of word ‘and possession’ following the typed words ‘to type of soil’.

6. For the facility of easy reference this court is reproducing text of order dated 24th July 1996 in both forms so called original text and so called tampered text:

Original Text:

“Since the mutations under reference have already been set aside by the learned Commissioner and his order has been upheld by this Tribunal and further in pursuance of direction from this Tribunal the learned Commissioner has conducted the enquiry with regard to type of soil, the Tehsildar Pampore is directed to pass fresh orders under section 4 and 8 of J & K Agrarian Reforms Act 1976 in consonance with law in the light of finding of Commissioner after affording adequate opportunity to the parties for being heard. Copy of the Commissioners finding dated 27.09.1994 be also forwarded alongwith this order to the Tehsildar Pampore.

The file shall go to records after due completion and the subordinate file be returned to court below.”

Tampered Text:

*“Since the mutations under reference have already been set aside by the learned Commissioner and his order has been upheld by this Tribunal and further in pursuance of direction from this Tribunal the learned Commissioner has conducted the enquiry with regard to type of soil, **and possession** the Tehsildar Pampore is directed to pass fresh orders under section 4 and 8 of J & K Agrarian Reforms Act 1976 in consonance with*

law in the light of findings of Commissioner after affording adequate opportunity to the parties for being heard. Copy of the Commissioners finding dated 27.09.1994 be also forwarded alongwith this order to the Tehsildar Pampore.

The file shall go to records after due completion and the subordinate file be returned to court below.”

7. By reference to the application so filed by revision petitioners Jalla and others but without any indulgence on the part of the Chairman, Jammu & Kashmir Special Tribunal, the learned Member of Bench II of Jammu and Kashmir Special Tribunal Srinagar at his own end directed an enquiry, which came to be conducted by the Assistant Registrar J and K Special Tribunal, Srinagar arriving at a conclusion at his own end that since the revision petition on file No. ST/2569 titled “Jalla and others versus Ghulam Nabi and others” was handwritten one so it was presumed to have been self-written by the petitioner as being the counsel for the revision petitioners and therefore the said revision petition was used as a referral document for getting forensic examination with the inserted words ‘and possession’ to come to a conclusion which by every stretch of reference is a misplaced one that the two handwritings matched and therefore related to the counsel i.e., the petitioner.
8. It is this enquiry report which came to be directed to be forwarded on the direction of the Presiding Officer of Bench-II, J&K Special

Tribunal Srinagar again without express order of the Chairman Jammu & Kashmir Special Tribunal, Srinagar to the Senior Superintendent of Police Crime Branch, Kashmir Srinagar for registration of FIR eventually resulting in registration of FIR No. 03/2019 leaving the petitioner exposed to suffer criminal proceedings and thus constraining him to come up with the present writ petition to assail the entire course of action.

9. A very perusal of the exercise undertaken at the end of the presiding Member of Bench-II of the time in 2018 and the Assistant Registrar, Jammu & Kashmir Special Tribunal Srinagar leaves this court disturbed that without first verifying from the copying officer of the time in 1996 issuing the certified copy as to whether the issuance of certified copy by him was carrying the insertion 'and possession' or it was done after issuance of certified copy and to whom the certified copy was issued, wither to the petitioner as counsel for the revision petitioners or for the one of the revision petitioners.
10. Without undertaking any such an elementary exercise at the very first instance and without even bothering to confirm the name of copying officer of the J & K Special Tribunal Srinagar in office in the year 1996, the Assistant Registrar Jammu & Kashmir Special Tribunal, Srinagar and Member Bench-II of Jammu & Kashmir Special Tribunal, Srinagar acted in haste to come to an inference that insertion of word 'and possession' was an act of manipulation

and forgery on the part of none other than the Advocate, the petitioner herein.

11. It is further important to bear in mind that none of the parties to the revision petition ever came forward complaining to the Jammu & Kashmir Tribunal Bench-II, Srinagar that they have been adversely affected by the insertion of word 'and possession' in the order dated 24.07.1996 which has turned table in terms of adjudication in terms of fresh inquiry and passing of mutation afresh directed otherwise in terms of the order dated 24.07.1996 by the Jammu & Kashmir Special Tribunal Bench II, Srinagar.
12. It is the respondents No. 6 & 7, who are said to be beneficiaries in terms of acquiring property forming subject matter of revision petition, who came forward with the allegation that there was a tampering of order of Jammu & Kashmir Special Tribunal Bench II, Srinagar.
13. Assistant Registrar, Jammu & Kashmir Special Tribunal, Srinagar without even bothering to hear the petitioner before entertaining an impression that it is the petitioner who is culprit, came to centre the focus of culpability on the petitioner and this is where the petitioner came to be taken by serious concern that the investigation in the FIR is going to be directed against none else than himself and that is where the abuse of process of law was found by him to be confronting him so as to approach this court with the present writ petition.

14. This court holds that the Member Bench-II Jammu & Kashmir Special Tribunal Srinagar in entertaining application on file No. JKS/4407/17 misdirected himself which rendered the final outcome of reference for registration of FIR and consequent registration of FIR against the petitioner and aimed against the petitioner to be vitiated with serious illegality warranting its setting aside.
15. Accordingly, this writ petition is allowed and the order dated 23.10.2017 passed by the Member Bench-II, J & K Special Tribunal Srinagar as also the enquiry report of the Assistant Registrar J&K Special Tribunal Srinagar, read with FIR No. 03/2019 are hereby quashed.
16. However, the disposal of this writ petition will not in any manner be taken to be the observation on the merits of the revenue side litigation as obtained between the parties in which respondents No. 6 & 7 may have become beneficiaries. The adjudication of this writ petition has taken place only to deal with the case of the petitioner as an advocate in the matter.
- 17. Disposed of.**

(RAHUL BHARTI)
JUDGE

SRINAGAR
04.04.2025
Hilal Ahmad