

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

(Th. virtual mode from Jammu Wing of High Court)

**Case No.:- WP(C) No. 301/2025
CM No. 696/2025**

Reserved on: 17.10.2025

Pronounced on: 11.12.2025

Uploaded on: 11.12.2025

*Whether the operative part
or full judgment is pronounced Full*

Vikas Dhar

.... Petitioner(s)

Through:- Mr. Hakim Suhail Ishtiaq, Advocate.
Mr. Wahid Lone, Advocate.

V/s

Financial Commissioner (Revenue) and ors.

....Respondent(s)

Through:- Mr. R A Jan, Sr. Advocate with
Mr. Wahid Ahmad, Advocate.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

1. Through the medium of the instant petition filed under Article 226 of the Constitution of India, petitioner has thrown challenge to the order dated 28.10.2024 passed by the Financial Commissioner Revenue-respondent 1 herein in a batch of six appeals/revisions filed by respondent 2 herein, wherein several mutations being Mutation No. 620 dated 17.08.1972, Mutation No. 920 dated 05.09.1981 and Mutation No. 921 dated 12.09.1981 and subsequent gift-based Mutations bearing No's. 1403 dated 15.04.1988 and 1409 dated 26.04.1988 in respect of land measuring 5 Kanals 1 Marla falling under Khasra No. 1100/945/802 in Estate Sonwar, Tehsil Srinagar (South) had been thrown challenge to.

2. Before proceeding to advert to the issues involved in the instant petition, it would be appropriate to give a brief background of the facts, leading to the filing of the instant petition hereunder:-

- (i) Mutation No. 620 (supra) came to be attested on 17.08.1972 in respect of the land in question on the basis of an order of the then Tehsildar, Srinagar dated 09.08.1972, reflecting therein the possession of proforma respondent 4 herein since Rabi 1969 and at the time of attestation of the said mutation, land measuring 10 Kanals 08 Marlas was recorded in the possession of one Justice Janki Nath Wazir, (former Chief Justice of the High Court of Jammu and Kashmir) and paternal uncle of respondents 2 and 3 herein and the said Justice Wazir had appeared before the Tehsildar and made a statement before him at the time of attestation of said mutation No. 620.
- (ii) Pursuant to coming into being of J&K Agrarian Reforms Act, 1976 (*hereinafter referred to as, "the Act of 1976"*), Mutations Nos. 920 and 921 (supra) were attested under Sections 4 and 8 of the Act of 1976 in respect of the land in question, resulting in conferment of ownership rights upon proforma respondent 4 herein.
- (iii) Respondents 2 and 3 herein succeeded to the estate of their father, namely, Sh. B.S. Sawhney, who passed away on 12.05.1980 and in the year 1983, respondent 2 herein applied for attestation of the inheritance mutation of the estate of his father, resulting in attestation of Mutation No. 1074, wherein the respondent 2 herein expressly acknowledged that land

measuring 5 Kanals 1 Marla stood mutated under Section 8 of the Act of 1976 in favour of proforma respondent 4 herein and had prayed for devolution of the remaining portion of the land by way of inheritance and in this regard, the respondent 2 herein had also signed the said Mutation No. 1074.

(iv) Prior thereto, in the year 1976, eviction proceedings had been initiated qua the land in question against the proforma respondent 4 at the behest of respondent 3 herein being (brother of respondent 2) under and in terms of the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (*hereinafter referred to as "the Act of 1971"*) on the ground that the entire 10 Kanals of land along with a house had been leased to the Defence Authority pursuant to Lease Deed dated 12.11.1960 and the said eviction proceedings got culminated into an order of eviction dated 30.11.1985 passed by the Estates Officer, wherein it had been held that the Mutation Nos. 620, 920, 921 and 1074 are un-reliable orders and not acceptable.

(v) The said order of the Estates Officer dated 30.11.1985 came to be challenged by the proforma respondent 4 herein before the District Judge, Srinagar in an appeal and the District Judge, Srinagar set aside the said order vide judgment dated 23.05.1987 on the ground that there was no documentary proof to show that the land in question in possession of proforma respondent 4 formed part of the leased premises and that the Estates Officer was, in no case, competent to give any

adjudication on revenue entry, based on which, the mutations in question, have been attested by a competent authority under the Act of 1976.

(vi) The said judgment of the District Judge, Srinagar dated 23.05.1987 came to be affirmed in a Revision Petition No. 130/1987 on 23.09.1988 by this Court.

(vii) During pendency of the aforesaid appeal before the District Judge, Srinagar, out of the land in question, land measuring 2 Kanals 10 Marlas 184 sq.ft. came to be gifted to the petitioner through a registered Gift Deed by proforma respondent 4 herein, giving rise to attestation of Mutation No. 1403 (supra), whereas similar portion of land was also gifted to proforma respondent 5 herein by proforma respondent 4 herein followed by attestation of Mutation No. 1409 (supra).

(viii) In the year 2017, the respondent 2 herein filed appeals/revisions before the respondent 1 herein, which were transferred to Joint Financial Commissioner Revenue, challenging the aforesaid mutations on the ground that he/respondent 2 herein acquired knowledge of the said mutations only upon vacation of the premises by the Defence Authorities in the year 2011 and independent applications were also filed, accompanying the said appeals and revisions for treating the same as being within time.

(ix) The petitioner herein upon his appearance before the Joint Financial Commissioner in the said appeals/revisions raised a preliminary objection on the issue of limitation and aggrieved by the inaction of Joint Financial Commissioner in deciding the

said preliminary objection of limitation, the petitioner herein approached this Court by filing a petition being WP(C) No. 1917/2020, challenging the proceedings of said appeals/revisions on the grounds of maintainability and limitation and this Court vide order dated 30.09.2022, disposed of the said writ petition with a direction to respondent 1 herein to dispose of all the appeals/revisions within a period of two months from the date a copy of the order was served upon him and if, for any reason, disposal on merits was not possible within the said period, the respondent 1 came to be mandated to positively decide the petitioner's objections regarding maintainability of the said appeals/revisions on the ground of delay and also the petitioner's request for vacation of stay within the said timeframe.

(x) Against the order dated 30.09.2022 passed in the said writ petition, the petitioner herein preferred a Letters Patent Appeal being LPA No. 214/2022, which as well also came to be disposed of vide order dated 02.11.2022, whereby the respondent 1 herein came to be directed to first address and decide the questions of limitation and maintainability of appeals/revisions before entering into the merits of the appeals/revisions and only upon finding the proceedings to be maintainable, it would be open for the respondent 1 herein to proceed to hear and decide the matters on merits.

(xi) It is pertinent to note here that matters were heard first by the then Joint Financial Commissioner during the year 2023 and

reserved for orders, but later released on account of his transfer, whereupon the respondent 1 herein reheard the same and decided vide order dated 28.10.2024 and while condoning the delay therein, also set aside all mutations, but protected the physical possession of the petitioner herein and proforma respondent 5 herein despite recording a finding therein in the said order that the plea of lack of knowledge of the mutations in question raised by the respondent 2 herein (petitioner/appellant therein) was factually incorrect, specifically making a reference to the mutations attested in the year 1985 and the eviction order passed by the Estates Officer, as also the admission of respondent 2 herein at the time of attestation of Mutation No. 1074 dated 05.07.1983, while making further observation that respondent 3 herein was Karta of Hindu Undivided Family (HUF) and respondent 2 herein being his younger brother, cannot plead ignorance and that the respondent 2 had attained the knowledge of the mutations, at least, in the year 1983, yet the respondent 1 herein proceeded to decide the appeals/revisions on merits on asking of the respondent 2 herein and decided the issue of limitation based on merits of the said appeals/revisions.

3. The petitioner herein feeling aggrieved of order dated 28.10.2024, has maintained the instant petition while seeking the following reliefs:-

(i) By issuance of an appropriate writ or direction including one in the nature of Certiorari, the impugned judgment dated 28.10.2024 passed by the respondent No. 1 be quashed

and the appeals/revision petitions filed by the respondent No. 2 be dismissed.

(ii) Any other relief, which this Court deems just and proper be granted in favour of the petitioner and against the respondents.”

4. **Reply** to the instant petition has been filed by the respondents 2 & 3 herein, wherein the petition is being opposed, *inter-alia*, on the premise that the same raises disputed questions of fact, evidentiary in character, thus, incapable of being resolved in the writ petition and that the order under challenge is legally perfect and unexceptionable in law, not warranting any interference in exercise of extraordinary jurisdiction enshrined under Article 226 of the Constitution of India, while stating further that Mutation No. 620 (supra), the very foundation of the claim asserted by the petitioner herein qua the land in question, is manifestly fraud not only on the power and authority vested in the revenue authorities under the Land Revenue Act of 1996 (*hereinafter, for short, “the Act of 1996”*) and Agrarian Reforms Act, but also on the constitutionally guaranteed right of respondents 2 & 3 herein, rendering the consequential mutation as well *void ab initio and non-est/nullity* in law and that the premises comprising of residential Bungalow along with the land measuring 10 kanals and 08 marlas (of which land measuring 05 marlas 01 marla and 96 Sq.ft. is an integral part), is a public premises within the meaning and contemplation of the Act of 1971, warranting invoking of the said Act for eviction of unauthorized occupants of the land measuring 05 kanals and 08 marlas 96 sq.ft., which had been illegally encroached upon by the respondent 4 herein and which encroachment had culminated into an order of eviction dated

18.07.1973 passed by the Defence Estate/Military Officer under Section 5 of the Act of 1971, against which, an appeal had been preferred by the respondent 4 herein before the District Judge being Appeal No. 08/1973, which appeal, however, came to be dismissed by the District Judge on 19.08.1975 and that the said encroachment of the land in question also got conclusively established during an enquiry held by the Court of Estates Officer in the month of November, 1985, establishing that the land measuring 05 kanals 01 marla and 96 Sq. ft. did not ever belong to respondent 4 herein, but has been a part and parcel of the leased immovable property comprising of residential Bunglow known as “SUKHNIKETAN”, therefore, rendering both the petitioner herein and respondent 5 herein being brothers as trespassers and that the petitioner herein even with a nefarious design of misleading the Cantonment Board wilfully and deliberately made false representations regarding the land in question, claiming the same to be his proprietary land, while holding out the English version of the relevant revenue record of rights and succeeded in obtaining a building permission, which on account of the said fraud including the building activity carried out thereon, rendered the same void ab-intio, illegal and non-est.

Heard learned counsel for the parties and perused the record.

5. According to Mr. Hakim Suhail, learned counsel for the petitioner herein, although the Land Revenue Act of 1996 does not prescribe a specific period of limitation for filing revisions, however, the law laid down by various judicial precedents restricts the exercise of revisional jurisdiction under the said Act by the revisional authority

to a reasonable period, generally three years and in cases of alleged fraud not beyond five years, but despite the said position of law, the respondent 1 herein conducted the proceedings in the revision petition maintained by the respondent 2 herein after more than forty years and in the process, exercised discretion arbitrarily, that too after having recorded a categorical finding that the respondent 2 herein was aware of the mutations under challenge, at least, since the year 1983.

It is further urged by the learned counsel for the petitioner that the respondent 1 herein even failed to adhere to the settled legal principles that the question of limitation must be addressed independently and prior to examining of the matter on merits and that the merits of the case cannot alone justify the condonation of delay.

It is next contended by learned counsel for the petitioner that the respondent 2 herein instead of filing a formal application for condonation of delay under Section 5 of the Limitation Act, merely filed an application with a prayer for treating the appeals within time being a procedure unknown to law.

It is next argued by the learned counsel for the petitioner that the father of respondents 2 and 3 herein never challenged the mutations in question during his lifetime, although the mutations were attested when his sister and the Justice Janki Nath Wazir were residing in the property and that once the predecessor-in-interest of the respondents 2 & 3 herein did not choose to dispute the revenue entries/mutations,

the respondents 2 & 3 herein cannot, after several decades, claim a right superior to that of their predecessor.

It is also pleaded by the learned counsel for the petitioner that the respondent 2 herein deliberately concealed and suppressed in the appeals/revisions the factum of attestation of Mutation No. 1074 in the year 1983 having been attested at his behest, containing the waqia of attestation of mutations under Section 4 & 8 of the Act of 1976, as the same otherwise would have demolished the entire case of the respondent 2 herein that the property remained with Defence Authorities since 1960 till 2011.

It is also pleaded by the learned counsel for the petitioner that Gift Deeds forming the basis of Mutation Nos. 1403 and 1409 dated 15.04.1988 & 26.04.1988 respectively have not been questioned before any competent Court by the respondents 2 & 3 herein and in absence thereof, thus, the respondent 1 herein could not have annulled the mutations without first determining the validity of the underlying Gift Deeds.

It is lastly canvassed by the learned counsel for the petitioner herein that after returning a clear finding that the plea of ignorance by the respondent 2 herein was incorrect, the respondent 1 herein, contrary to the directions of the Division Bench passed in LPA No. 214/2022 (supra) nonetheless proceeded to condone the delay by relying upon merits of the case despite the fact that the said directions of the Division Bench mandated the respondent 1 herein to determine the plea of limitation as a threshold issue.

6. On the contrary, Mr. R A. Jan, learned Senior Advocate for the respondents 2 & 3 herein, while controverting the submissions of Mr. Hakim Suhail, learned counsel for the petitioner, would vehemently argue that since the land in question was not covered by the provisions of the Act of 1976, the impugned mutations had been attested without jurisdiction by the revenue authority and the said mutations had been attested against a dead person, as the land was recorded in the ownership of Late Shri Dhanraj Sawhney, the predecessor-in-interest of the respondent 2, who had already passed away in the year 1946.

Mr. Jan would further submit that the total land owned by the grandfather of the respondents 2 & 3 herein was 10 Kanals 08 marlas and the same has been leased out to the Defence Authorities in the year 1960 by the said Shri Dhanraj Sawhney and that the land in question was a part of the said land of 10 kanals 08 marlas and that in respect of the land in question, the Military Estates Officer had earlier initiated eviction proceedings against the proforma respondent No. 4 for raising a fencing, which led to passing of an eviction order on 18.07.1973 under the Act of 1971, aggrieved whereof, an appeal came to be filed by the proforma respondent 4 herein before the District Judge, Srinagar, which appeal was dismissed on 19.08.1975 and that thereafter, another eviction proceedings were initiated against the said proforma respondent 4 herein in the year 1985 under the Act of 1971 qua the land in question, which led to the passing of an eviction order again on 30.11.1985.

7. Having regard to the respective pleadings of the contesting parties being the petitioner and respondents 2 & 3 herein, inasmuch as the submissions of the appearing counsel for the parties, the moot question, which arises for consideration of this Court is whether the respondent 1 herein was justified in condoning the delay of more than four decades in filing of the appeals/revisions by the respondent 2 herein against the mutations in question.
8. Perusal of the record reveals that admittedly the attestation of Mutation No. 1074 or else presence of respondent 2 herein during attestation of the said mutation has neither been denied nor disputed, so much so, no reasons for not disclosing the attestation of the said mutation in the appeals/revisions before the respondent 1 have been provided by respondent 2 herein.
9. As is discernible from the impugned order, the respondent 2 herein filed four revision petitions under Section 12 of the Act of 1996 and two appeals under Section 22 of the Act of 1976.

A reference hereunder to the said provisions besides Section 15 of the Act of 1996 being relevant and germane to the controversy, therefore, becomes imperative:-

“Section 12 of the Act of 1996

12. Limitation for appeals, revisions and reviews.—(1) [Save as otherwise provided in this Act] the period of limitation for an appeal under the last foregoing section shall be as follows:-

(a) When the appeal lies to the [Collector or an Assistant Collector of the first class] ... 60 days ;

(b) When the appeal lies to [x x x] the [Financial Commissioner] or [Divisional Commissioner] ... 90 days.

[x x x x]

(2) Such provisions of the Limitation Act as apply to appeals, applications for revision and review in civil suits shall also apply to appeals, applications for revision and review under this Act.”

“Section 15 of the Act of 1996

- [15. Power to revise orders.—(1) The [Financial Commissioner] may at any time call for the record of any case pending before or disposed of by any Revenue Officer under 4 [his control].*
- (2) The [Divisional Commissioner] may call for the record of any case pending before or disposed of by any Revenue Officer subordinate to him.*
- (3) If in any case in which, the [Divisional Commissioner] has called for a record he is of opinion that the proceedings taken or order made should be modified or revised he shall report case with his opinion thereon for the orders of the [Financial Commissioner.]*
- (4) The Financial Commissioner may, in any case called for by him under sub-section (1) or reported to him under sub-section (3), pass such order as he thinks fit:-*

Provided that, he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate officer affecting any question of right between private persons without giving those persons an opportunity of being heard.]”

“Section 22 of the Agrarian Reforms Act.

22. Limitation for appeals. —(1) The period of limitation shall be sixty days in the case of an appeal from the date of the order appealed from :

Provided that the period of limitation relating to cases in the district of Ladakh, in the Sub-Division of Gurez, in Machhil Illaqa of Tehsil Kupwara and Tehsil Karnah in the district of Baramulla, in Tehsil Gool Gulabgarh, in Niabat Panchari of Tehsil Udampur, in the territorial jurisdiction of Police Station, Dudoo Basantgarh and Bermen and Gobin Illaqa of Tehsil Ramnagar and in the Thakra Kote and Nagote Illaqa of Tehsil Reasi in the district of Udampur; in Tehsil Budhal in the district of Rajouri ; in Niabat Banni in the district of Kathua ; and in Marew, Warwan and Paddar Illaqa of Kishtwar in the district of Doda ; and such other areas as may be notified by the Government shall be one hundred and twenty days.

(2) Save as otherwise provided in sub-section (1), the provisions of the Jammu and Kashmir Limitation Act, Samvat 1995 shall apply to appeals under this Act.

Provided that notwithstanding anything contained in section 9 of the Jammu and Kashmir Limitation Act, Samvat 1995, the period intervening 25th March, 1975 and the commencement of this Act shall be excluded in computing the period of limitation applicable to appeals.”

10. It is also significant to mention here that the respondent 1 herein has not exercised *sue moto* revisional power under Section 15 of the Act of 1996 (supra), but has rather invoked such power on the basis of the applications filed by the respondent 2 herein, thus, making the

period of limitation provided under Section 12 of the Act of 1996 (supra) applicable to the case being the period of ninety (90) days. Similarly, under Section 22 of the Act of 1976, the limitation period of sixty (60) days is provided for filing of the appeals thereunder the Act of 1976.

11. Having regard to the aforesaid position of law that Limitation Act is applicable to the revisions/appeals filed by the respondent 2 herein before the respondent 1 herein, it consequently follows that by virtue of Section 3 of the Limitation Act, any proceedings filed after the prescribed period of limitation are liable to be dismissed, subject to the applicability of Sections 4 to 25 thereof and although Section 5 of the said Act provides for extension of the period of limitation in certain cases and creates an exception thereof, permitting the entertaining of appeals/applications beyond the prescribed period of limitation, however, with a caveat that the applicant has to satisfy that he had a sufficient cause for not preferring the appeal or making the applications within the prescribed period.

12. However, perusal of the record tends to show that no formal application under Section 5 of the Limitation Act had been filed by the respondent 2 herein along with the appeals/revisions and instead applications for treating the appeals/revisions within time had been filed, a perusal whereof reveals that no date of knowledge of the impugned order/mutations had been pleaded therein, but rather a vague assertion had been made that the appellant/respondent 2 herein “recently” became aware of the mutations in question and a closer

examination of the record reveals that identical applications have had been filed across all said appeals/revisions.

13. Though filing of a formal application under Section 5 of the Limitation Act has been held not mandatory by the Apex Court, yet it has been held that the pleadings must nonetheless disclose material particulars relating to delay and limitation, however, in the present case, the respondent 2 herein did not plead any date of knowledge in respect of the mutations thrown challenge thereto in the appeals/revisions.

As has been noticed in the preceding paras that respondent 2 herein maintained complete silence regarding attestation of Mutation No. 1074 being an inheritance mutation attested at his own instance and respondent 1 herein in the impugned order has recorded that the presence of respondent 2 herein was noted at the time of attestation of the said mutation and his signatures even appears on the said mutation and interestingly, perusal of the said mutation reveals that the respondent 2 herein at that time had also stated regarding the attestation of aforesaid mutation under Sections 4 & 8 of the Act of 1976.

A closer examination of the record available on the file manifestly reveals that the respondent 2 herein has neither offered any explanation either before the respondent 1 herein or before this Court as to why the attestation of Mutation No. 1074, which clearly attributed knowledge of the impugned mutations to him was withheld. Such an act of withholding of the information of attestation of said Mutation No. 1074 being a material fact cannot, but, said to

have been done consciously, if not, *mala fide*ly having regard to the fact that the respondent 2 herein consciously delayed the filing of the revisions/appeals before respondent 1 herein for more than four decades.

14. Perusal of the record further reveals that the Mutation No. 620 is attested on 17.08.1972 on the basis of an order of the then Tehsildar, Srinagar on 09.08.1972 reflecting the possession of proforma respondent 4 herein qua the land in question since Rabi 1969 having been attested on the basis of the statement of Justice Janki Nath Wazir before the attesting authority regarding his possession over the land in question at the time of the said attestation and while risking repetition, the said Justice Janki Nath Wazir has been the paternal uncle of the respondents 2 & 3 herein and at the relevant point of time, the father of the respondents 2 & 3 herein was alive and had not questioned either order dated 09.08.1972 or the consequent Mutation No. 620.

15. Further perusal of the record available on the on the file also reveals that the eviction proceedings under the Act of 1971 came to be initiated against the proforma respondent 4 herein at the instance of respondent 3 herein and though the said respondent 4 herein had produced the impugned mutation as early as in the year 1985, yet the same was never challenged by the respondent 3 herein, who being the Karta of the HUF, of which the respondent 2 herein was a member and fully aware of the said mutation and, therefore, in these circumstances, it can safely be said that the respondent 1 herein rightly noticed the same and concluded that the plea of respondent 2

herein that he lacked the knowledge of the impugned mutation, was factually untenable and in view of the said conclusion drawn by the respondent 1 herein, the appeals/revisions ought to have been dismissed as being barred by limitation without going into the merits of the case, more so, in presence of the specific directions passed by the Division Bench of this Court in LPA No.214/2022, whereby the respondent 1 herein had been directed to first address and decide the question of limitation and maintainability before entering into the merits of the appeals/revisions.

16. It also emerges from the record that the respondent 1 herein, however, on mere asking of the counsel for the respondent 2 herein has gone into the merits of the appeals/revisions based on record and condoned the delay on the basis of merits of the case without offering an opportunity of being heard either to the petitioner herein or to the proforma respondents herein, as in this regard, nothing is forthcoming from the record.
17. Having regard to the aforesaid position obtaining in the matter, a reference to the following judgments of this Court as well as the Apex Court being germane to the controversy in question, would be appropriate and advantageous:-

This Court in case titled as, “*Des Raj & ors v. State of J&K & ors.*”, reported in 2024 (3) JKJ 16”, while dealing with the issue of limitation has held as under:-

“12. I have gone through the order dated 2nd July, 2001 passed by the appellate authority and am in agreement with the appellate authority that in the absence of sufficient cause being shown such belated appeals could not have been entertained. That apart, the private respondents have, nowhere in their appeals before the appellate authority, given any date on which they

acquired the knowledge of passing of the mutations impugned in the appeals. In these circumstances, when there is no application for condonation of delay under Section 5 of the Limitation Act filed nor any date of acquisition of knowledge of the attestation of the impugned mutations is given nor is there any sufficient cause pleaded and demonstrated, the appellate authority shall have no option but to dismiss the appeals being filed after expiry of the period of limitation prescribed under Section 22 of the Act.”

The Apex Court in case titled as, “**H. Guruswamy v. A. Krishnaiah**” since deceased by Lrs. reported in (2025 LiveLaw (SC) 53 has held as under:-

- “16. The length of the delay is definitely a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the respondents herein, it appears that they want to fix their own period of limitation for the purpose of instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.
17. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. No court should keep the ‘Sword of Damocles’ hanging over the head of a litigant for an indefinite period of time.”

In case titled as, “**Santoshkumar Shivgonda Patil and Others Vs. Balasaheb Tukaram Shevale and Others**”, reported in (2009) 9 SCC 352”, the Apex Court, while examining the scope of revisional powers under Section 257 of the Maharashtra Land Revenue Code, 1966 has held as follows:-

"11. It seems to be fairly settled that if a statute does not prescribe the time-limit for exercise of revisional power, it does not mean that such power can be exercised at any time; rather it should be exercised within a reasonable time. It is so because the law does not expect a settled thing to be unsettled after a long lapse of time. Where the legislature does not provide for any length of time within which the power of revision is to be exercised by the authority, suo motu or otherwise, it is plain that exercise of such power within reasonable time is inherent therein.

12. Ordinarily, the reasonable period within which the power of revision may be exercised would be three years under Section 257 of the Maharashtra Land Revenue Code subject, of course, to the exceptional circumstances in a given case, but surely exercise of revisional power after a lapse of 17 years is not a reasonable time. Invocation of revisional power by the Sub- Divisional Officer under Section 257 of the Maharashtra Land Revenue Code is plainly an abuse of process in the facts and circumstances of the case assuming that the order of the Tahsildar passed on 30-3-1976 is flawed and legally not correct."

In *"State of Punjab and Others v. Bhatinda District Cooperative Milk Producers Union Ltd.*, reported in (2007) 11 SCC 363", the Apex Court, while examining the scope of revisional powers under Section 21 of the Punjab General Sales Tax Act, 1948 held as follows:-

"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefore, the same would not mean that the suo motu power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years....."

In *"S.B. Gurbaksh Singh v. Union of India*, reported in (1976) 2 SCC 181", the Apex Court has held that the exercise of *suo motu* revisional power must also be undertaken within a reasonable time, and that any unreasonable delay may vitiate the

action. What constitutes “reasonable time,” however, is a matter to be determined with reference to the facts and circumstances of each case.

The Apex Court in case titled as, “***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v. K. Suresh Reddy and Others***, reported in (2003) 7 SCC 667”, has held that even in cases involving allegations of fraud, the revisional power must still be exercised within a reasonable period. The Court observed that several factors must be considered while determining whether relief should be declined solely on the ground of delay and the Court stated as under:-

"In cases of fraud, this power could be exercised within a reasonable time from the date of detection or discovery of fraud. While exercising such power, several factors need to be kept in mind such as effect on the rights of the third parties over the immovable property due to passage of considerable time, change of hands by subsequent bona fide transfers, the orders attaining finality under the provisions of other Acts (such as the Land Ceiling Act)."

In case titled as, “***State of H.P. and Others v. Rajkumar Brijender Singh and Others***, reported in (2004) 10 SCC 585”, the Apex Court held that, in the absence of any special circumstances, a delay of 15 years in the *suo motu* exercise of revisional powers was impermissible, being unduly long and wholly unexplained and in this regard, observed as under:-

"We are now left with the second question which was raised by the respondents before the High Court, namely, the delayed exercise of the power under sub-section (3) of Section 20. As indicated above, the Financial Commissioner exercised the power after 15 years of the order of the Collector. It is true that sub-section (3) provides that such a power may be exercised at any time but this expression does not mean there would be no time-limit or it is in infinity. All that is meant is that such powers should be exercised within a reasonable time. No fixed period of limitation may be laid but unreasonable delay in exercise of

the power would tend to undo the things which have attained finality. It depends on the facts and circumstances of each case as to what is the reasonable time within which the power of suo motu action could be exercised. For example, in this case, as the appeal had been withdrawn but the Financial Commissioner had taken up the matter in exercise of his suo motu power, it could well be open for the State to submit that the facts and circumstances were such that it would be within reasonable time but as we have already noted that the order of the Collector which has been interfered with was passed in January 1976 and the appeal preferred by the State was also withdrawn sometime in March 1976. The learned counsel for the appellant was not able to point out such other special facts and [pic]circumstances by reason of which it could be said that exercise of suo motu power after 15 years of the order interfered with was within a reasonable time. That being the position in our view, the order of the Financial Commissioner stands vitiated having been passed after a long lapse of 15 years of the order which has been interfered with. Therefore, while holding that the Financial Commissioner would have power to proceed suo motu in a suitable case even though an appeal preferred before the lower appellate authority is withdrawn, maybe, by the State. Thus the view taken by the High Court is not sustainable. But the order of the Financial Commissioner suffers from the vice of the exercise of the power after unreasonable lapse of time and such delayed action on his part nullifies the order passed by him in exercise of power under sub-section (3) of Section 20".

The Hon'ble Supreme Court, in case titled as, "**Joint Collector, Ranga Reddy District v. D. Narsingh Rao**", reported in (2015) 3 SCC 695", has also held as under:-

"11. To sum up, delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority."

12. In the case at hand, while the entry sought to be corrected is described as fraudulent, there is nothing in the notice

impugned before the High Court as to when was the alleged fraud discovered by the State. A specific statement in that regard was essential for it was a jurisdictional fact, which ought to be clearly asserted in the notice issued to the respondents. The attempt of the appellant-State to demonstrate that the notice was issued within a reasonable period of the discovery of the alleged fraud is, therefore, futile. At any rate, when the Government allowed the land in question for housing sites to be given to Government employees in the year 1991, it must be presumed to have known about the record and the revenue entries concerning the parcel of land made in the ordinary course of official business. In as much as, the notice was issued as late as on 31st December, 2004, it was delayed by nearly 13 years. No explanation has been offered even for this delay assuming that the same ought to be counted only from the year 1991. Judged from any angle the notice seeking to reverse the entries made half a century ago, was clearly beyond reasonable time and was rightly quashed.

In “*Pathapati Subba Reddy (Died) by lrs & ors v. Special Deputy Collector (LA)*” [reported as 2024 LiveLaw (SC) 288], the Apex Court has held as under:-

- (i) *Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) *A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) *The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) *In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) *Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*
- (vi) *Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*
- (vii) *Merits of the case are not required to be considered in condoning the delay; and*

Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”

This Court in the case titled as, “**Ayub Gojar & Ors v. Financial Commissioner** [reported as 2018 (2) SLJ 992]” has held as follows:-

“If a statute does not prescribe the time limit for the exercise of revisional power, that will not give the authority determining the matter, the teach to unsettle an order after a long time of 55 years. The power has to be exercised within a reasonable time as per the law laid down in (2007) 11 SCC 363 and ordinarily it can be exercised within a period of three years and in no case beyond a period of five years even where fraud is alleged. The creation of third-party interest in the case, the passage of considerable time, from the date of the attestation of the mutations, change of hands by subsequent bona fide transfers are the factors that have to be taken into consideration and had to be given due weight while exercising the revisional powers.”

In “**Rajni Koul v Jt. Financial Commissioner & Ors.**, reported in [2023 (1) SLJ 217]”, this Court has held as under:-

“The conduct of the petitioner cannot but said to be callous, remiss and slack, as the petitioner has consciously delayed the filing of the revision petition from the year 2017. Thus, this Court has no reason not to follow the dictum of the judgment passed by this Court in case titled "Ayoub Gojar & Others" supra, wherein it has been provided that, "a person who is slack, callous and remiss in rolling the law in his favour at the opportune time, can do so after a great deal of time subject to his whims and caprices and if such a situation is allowed to prevail, it will open a flood gate for uncalled litigations which cannot be controlled by the authorities while hearing and determining the revisions. Such a view, that a person filing a revision can do so at his will at any moment of time without spelling out reason as to why he waited for pursuing the action for such a long time which did not meet the test of reasonability, will lead to disastrous consequences.”

The Division Bench of this Court in case titled as, “**Wali Mohammad Magrey & Anr v. Ali Mohammad Gujree & Ors.**, [reported as 2022 (1) SLJ 45], has held as under:-

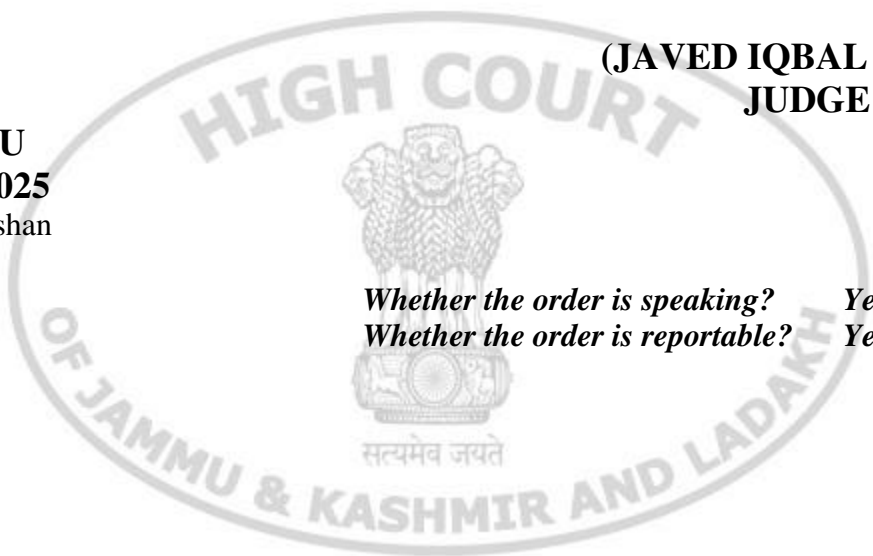
“Now that we have come to a definite conclusion that a revision arising out of the provisions of the Land Revenue Act under Section 15 thereof, initiated at the instance of an aggrieved party, would attract the law of limitation, the judgments of the learned Single Benches, which hold to the contrary, expressing conflicting view, would continue to baffle the revenue authorities and the legal practioners. Those judgments, obviously, do not lay down a good law and, therefore, need to be, and are, declared so. Some of these judgments, which have come to our notice are mentioned herein: (i) Mst. Akhtara v. State of J&K & ors., 2009(I) SLJ 20; (ii) Sukhdev & anr. v. Financial Commissioner & ors., 2005 (II) SLJ 716 (to the extent it holds so); and (iii) Mst. Azizi v Mst. Fata, 2003 (II) 599 (to the extent it relates to and deals with the point in question).”

18. For what has been observed, considered and analyzed hereinabove, in particular, that the attestation of mutation No. 1074 attested in the month of July, 1983 at the instance of respondent 2 herein, production of the impugned mutations in the year 1985 eviction proceedings and contemporaneous conduct of the family members of respondents 2 & 3 herein, who did not challenge the mutations/entries as well as the absence of any particularized pleadings or proof of the date of knowledge qua the impugned mutations or of reasonable discovery of any alleged fraud including the deliberate non-disclosure of the aforesaid material documents by the respondent 2 herein before the respondent 1 herein as well as this Court, which fatally undermines any plea of *bon afide* ignorance on part of the respondents 2 & 3 herein, the only inescapable conclusion that could be drawn by this Court is that the revisions/appeals filed by the respondent 2 herein are hopelessly time barred and that the respondent 1 herein grossly erred in condoning the inordinate delay qua the appeals/revisions filed by the respondent 2 herein by resorting to the merits thereof.

19. Accordingly, for the aforesaid reasons, the impugned order dated 28.10.2024 passed by the Financial Commissioner Revenue, J&K-respondent 1 herein is quashed and consequently, the appeals/revisions filed by the respondent 2 herein being four Revision Petitions under Section 12 of the Act of 1996 and two appeals under Section 21 of the Act of 1976 shall stand *dismissed* as being barred by limitation along with all connected applications.
20. The record be returned back to the learned counsel for the official respondents against proper receipt.

JAMMU
11.12.2025
Ram Krishan

(JAVED IQBAL WANI)
JUDGE



Whether the order is speaking? Yes
Whether the order is reportable? Yes