

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

WP(C) 585/2021 CM 1757/2021) CM (4557/2025)

**Mohammad Sadiq Matt, Aged 60 Years
S/O Mohammad Ashnoor Matt
R/O Qamarabad, Qamarwari, Srinagar**

.....Petitioner(s)

Through:
*Mr. Abid Hameed, Adv. vice
Mr. Mir Mehraj ud Din Bhat, Adv.*

Versus

- 1. Union Territory of Jammu and Kashmir through its Chief Secretary
Revenue Department Civil Secretariat, Srinagar/Jammu**
- 2. Financial Commissioner Revenue, Kashmir, Srinagar**
- 3. Divisional Commissioner Kashmir, Srinagar.**
- 4. District Collector Srinagar/Deputy Commissioner, Srinagar.**
- 5. Tehsildar Srinagar Central, Srinagar**
- 6. Commissioner SMC Srinagar**
- 7. Chairman Srinagar Development Authority (SDA) Srinagar**
- 8. Chief Enforcement Officer (SMC) Srinagar**
- 9. Ward Officer concerned SMC Srinagar**
- 10. Vice Chairman Srinagar Development Authority (SDA) Srinagar**
- 11. The Director, Survey and Land Records Srinagar Development Authority.**

.....Respondent(s)

Through:
*Mr. Bikramdeep Singh, Dy. AG for Rs. 1 to 6, 8 and 9
Mr. Illyas Laway, GA for Rs. 7, 10 and 11.*

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

11.11.2025

1. The petitioner through the medium of the instant petition has sought the following relief:

a. A Writ of Prohibition, restraining the respondent No. 5 to 11 from interfering in any manner whatsoever in nature into the proprietary land measuring 2 Kanals, 17.5 Marlas

covered under Khasra No. 204, situated at Barthana District Srinagar of the petitioner.

- b. A Writ of Mandamus, respondents be commanded to demarcate the land covered by Khasra No's given hereinabove relief situated at Estate Barthana, District Srinagar and assign the same to the petitioner as lawful owner to the extent of their possession as mentioned in the revenue record.*
- c. A Writ of Mandamus, commanding the respondents to pay compensation for the damages caused to the proprietary land measuring 02 Kanals and 17.5 Marlas of the petitioner comprising under Survey No. 204 situated at Barthana, District Srinagar, instant forthwith.*

2. The petitioner, a resident of Qamarabad, Qamarwari Srinagar, Kashmir, claims to be the owner in peaceful possession of the land measuring 02 Kanals, 17.5 Marlas, comprised under Khasra No. 204, situated at Barthana, District Srinagar. The said land, according to the petitioner, stands duly mutated in his favour and has been in his possession for several decades.
3. It is the further case of the petitioner that the respondents have unlawfully dumped huge building material on spot and have started to raise illegal construction over the land of the petitioner, which construction was being carried out without any legal permission and justifiable cause.
4. The petitioner further submits that the land in question is proprietary land recorded in the name of the petitioner and is

still in the peaceful possession of the petitioner, but the respondents 6 to 11 are hell-bent to snatch the land of petitioner by raising construction which is meant for agriculture purpose from where the petitioner was earning his livelihood.

5. Feeling aggrieved of the aforesaid illegal actions on part of the private respondents, the petitioner approached the Tehsildar, Srinagar by way of detailed representation, whereby respondent No. 5 had directed the Director, Land Management, Srinagar Development Authority-respondent No. 11 to address the grievance of the petitioner and sought the relevant record for demarcation of the petitioner's land, vide communication dated 25.11.2021. However, the respondent No. 11 slept over the matter and started to encroach the land of the petitioner by dumping the construction material thereon. Consequently, the respondents have failed to discharge their statutory duties, and the representation filed by the petitioner has not been accorded due consideration.
6. The further case of the petitioner is that the respondents 6 to 11 have neither compensated the petitioner for the damage caused to his land nor have they ceased the unauthorized use thereof, thereby continuing to violate the petitioner's proprietary rights.
7. The response stands filed on behalf of respondents 1 to 5 as well as respondents 7 and 10. The respondents 7 and 10, in their reply, have specifically contended that the petitioner has earlier

filed a civil suit for permanent and mandatory injunction in respect of the same land on 28.10.2020, and the said suit was dismissed by the Court of learned 1st Civil Subordinate Judge, Municipal Magistrate Srinagar on 28.03.2022. It is further alleged that the petitioner has deliberately suppressed this material fact before this court. The respondents while filing the reply affidavit have also placed on record a copy of the said order dated 28.03.2022.

8. The respondents have further contended that instead of seeking restoration of the said civil suit, the petitioner has filed the present writ petition by concealing the aforesaid fact. Hence, according to the respondents, the petitioner has not approached this court with clean hands, and the petition is therefore liable to be dismissed with costs.
9. In addition, the respondents have also taken a specific stand in their reply, wherein it has been stated as under:-

8. "That the Tehsildar Srinagar Central Vide his letter No. 432/08/TCSS/20 dated 31.10.2020 issued a communication to the Director Land Management SDA on the application of petitioner against construction of block at Fruit Mandi Bemina. It is further submitted thereafter, the Tehsildar, Central, vide Letter No. 734/08/TCSS/20 dated 25.11.2020 issued a communication to the Director, Land Management, SDA, stating therein to depute representative of SDA along with the relevant record pertaining to the survey 204 for demarcation of the applicants land on 28.11.2020. The Copies of the said letters have been annexed as Annexures IV and V to the writ petition. The SDA representatives Naib Tehsildar SDA, Girdawar SDA along with Patwari SDA were

present the said date, however, no demarcation was conducted. That the land claimed by the petitioner needs to be ascertained by the revenue authorities as to where the land claimed by the petitioner in question exists. That the claim of the petitioner that SDA had dumped building material on petitioners land is not based on facts as such is denied.

9. That the petitioner claim over the land in question and were the said land exists is required to be sorted out by the concerned revenue authorities. In this regard SDA has taken up the matter with Tehsildar Central Srinagar vide letter No. SDA/LM/4003-05 dated 19.12.2023. A copy of the said letter is annexed as Annexure II.

10. A response also stands filed on behalf of respondents 1 to 5, wherein a preliminary objection has been raised with regard to the maintainability of the writ petition on the ground that it involves disputed questions of fact which cannot be adjudicated upon in the exercise of writ jurisdiction. The respondents have further contended that, as per the official revenue record, the land in question is recorded as “Shamilat Deh Hasbi Rasad ba Rokba Mazruva,” and that the petitioner, Mohammad Sadiq Matt, has no ownership entitlement or proprietary right over the same, except for a Power of Attorney executed in his favour by one Shri Sanjeev Matoo in the year 2010. It is further stated that the petitioner has failed to adopt the legal procedure as prescribed under the J&K Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997. The respondents have also alleged that the petitioner has managed to procure Mutation No.

2586/1 (Hibba) without obtaining the requisite permission for alienation of migrant property from the competent authority.

11. Heard learned counsel for the petitioner at length and also learned counsel appearing on behalf of the respondents.

12. In view of the stand taken by the respondents which has not been rebutted by the learned counsel for the petitioner, it has come to fore that the petitioner has earlier filed a civil suit for permanent and mandatory injunction in respect of the same land on 28.10.2020, which came to be dismissed by the Court of the learned 1st Civil Subordinate Judge (Municipal Magistrate), Srinagar, vide order dated 28.03.2022. The filing of the said suit, arising out of the same subject matter as in the present petition, ought to have been brought to the notice of this Court prior to filing the instant writ petition and subsequently also, when the same was dismissed during the pendency of instant writ petition. However, instead of availing the remedy of seeking restoration of the said suit, the petitioner has preferred the present petition by suppressing the aforesaid material fact. This Court is, therefore, of the considered view that the petitioner has not approached this Court with clean hands and has deliberately withheld material information with the intent to mislead the Court and obtain interim relief.

13. The Apex Court has consistently addressed the issue of concealing material facts in petitions, underscoring the

importance of full disclosure of the material facts and the potential consequences of suppression. The Hon'ble Supreme Court in the case titled as **Rekha Sharad Ushir v. Saptashruni Mahila Nagari Sahkari Patsansta Ltd. reported as 2025 SCC OnLine SC 661** has held as under:-

“It is settled law that a litigant who, while filing proceedings in the court, suppresses material facts or makes a false statement, cannot seek justice from the court. The facts suppressed must be material and relevant to the controversy, which may have a bearing on the decision making. Cases of those litigants who have no regard for the truth and those who indulge in suppressing material facts need to be thrown out of the court”.

14. Furthermore, the Hon'ble Supreme Court in the case titled as **S.P. Chengalvaraya Naidu v. Jagannath & Or. reported as (1994) 1 SCC 1** has held as under:-

“The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, taxevaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.”

15. Furthermore, it is a settled principle that anyone who seeks to undermine the course of justice, or approaches the court with dishonest intent, is not entitled to any relief, whether interim or final. The Supreme Court in the case of **Kusha Duruka v. The State of Odisha reported as 2024 SCC OnLine SC 56**, has taken a similar view, which is reproduced as under:

“It was held in the judgments referred to above that one of the two cherished basic values by Indian society for centuries is "satya" (truth) and the same has been put under the carpet by the petitioner. Truth constituted an integral part of the justice- delivery system in the pre-Independence era, however, post- Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings. In the last 40 years, the values have gone down and now a litigants can go to any extent to mislead the court. They have no respect for the truth. The principle has been evolved to meet to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is the challenges posed by this new breed of litigants. Now it is well settled that a litigant, who attempts not entitled to any relief, interim or final. Suppression of material facts from the court of law, is actually c/w playing fraud with the court. The maxim suppressio veri, expressio falsi, i.e.

suppression of the truth is equivalent to the expression of falsehood, gets attracted. It's nothing but degradation of moral values in the society, may be because of our education system. Now we are more happy to hear anything except truth; read anything except truth; speak anything except truth and believe anything except truth. Someone rightly said that `Lies are very sweet, while truth is bitter, that's why most people prefer telling lies."

16. The Hon'ble Apex Court in the case of **K. Jayaram and others vs Bangalore Development Authority and ors reported in 2022 (12) SCC 815**, has held as under:

“As per settled law, the party who invokes the extraordinary jurisdiction of m this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts."

17. In order to discourage such practice, this Court has, in similar cases, imposed costs as a deterrent against parties who approach the Court with unclean hands and conceal material facts. In **Madan Lal Gorla v. State Bank of India & Ors., SWP No. 1212/2018, decided on 21.02.2025**, where the petitioners were found to have suppressed material facts, the Court imposed a cost of Rs. 25,000/-. Likewise, in **Satpal Sharma & Ors. v. State of J&K & Ors., OWP No. 2015/2018, decided on 20.09.2024**, the Court imposed a cost of Rs. 50,000/- on the petitioners for concealing relevant facts, reinforcing the need for transparency and good faith in legal proceedings.

19. In light of aforesaid discussion, the petitioner having approached this Court with unclean hands, is not entitled to any equitable relief in the present writ petition which is devoid of any merit and liable to dismissal on account of suppression of material facts. The omission by the petitioner is not a mere lapse, but a calculated effort to withhold material information that could potentially influence the Court's decision. The failure to disclose the prior suit filed before the learned 1st Civil Subordinate Judge (Municipal Magistrate) is a material fact that goes to the very root of the petitioner's case. The deliberate concealment of such a significant fact from the Court constitutes an attempt to mislead the judicial process, thereby undermining the principles of good

faith, transparency, and honesty that are foundational to the administration of justice.

16. In the aforesaid backdrop, the instant writ petition is not maintainable and is accordingly liable to be dismissed for suppression of material facts.

17. Ordinarily, this was a fit case where the court ought to have imposed costs to the petitioner for misleading this court and not coming to this court with clean hands. Nevertheless, considering that the petitioner is a senior citizen aged about 64 years, this court is refraining from imposing the costs on the petitioner for filing the instant petition, however, a word of caution is issued to the petitioner to be careful in future.

18. The writ petition is dismissed in the aforesaid backdrop along with all connected applications.

(WASIM SADIQ NARGAL)
JUDGE

Srinagar

11.11.2025

Sakeena-PS

Whether the order is speaking

Yes/No

Whether the order is reportable

Yes/ No