

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

**WP(C) 1006/2025
CM(2639/2025)**

Jehangir Yaqoob Wani.

...Petitioner(s)

Through: Mr. S. N. Ratanpuri, Advocate with
Ms. Fiza, Advocate.

Vs.

Government of J&K and Others.

...Respondent(s)

Through: Mr. Jehangir Ahmad Dar, GA.

CORAM:

Hon'ble Mr. Justice Wasim Sadiq Nargal, Judge.

ORDER

20.05.2025

01. The short submission which has been advanced by the learned counsel for the petitioner is that the petitioner is owner in possession of land measuring 17 ½ marlas falling under Khasra No. 1006/54, Khata No. 793 and Khewat No. 426 situated at Barzulla, Tehsil South, District Srinagar, which the petitioner purchased from its owners namely, Sham Katyal and Rajiv Katyal, sons of Late Joginder Sain Katyal by virtue of registered Sale Deed executed on 7th of July, 2020 and registered on 22nd July, 2020. The learned counsel submits that after registration of the sale deed in question, the parties came to know that Khewat Number mentioned was 226, when, in fact, the Khewat Number was to be mentioned as 426 and the parties immediately prepared a rectification deed and executed the same on 12th October, 2020.

02. It is the specific case of the learned counsel for the petitioner that after purchase of the land, some persons started causing unnecessary and unwarranted interference with the possession of the petitioner over the said land, which constrained the petitioner to approach the Hon'ble Court, and the Hon'ble Court was pleased to restrain the said persons from causing any sort of interference. The petitioner thereafter applied to the Tehsildar concerned for demarcation of his land and acting on the said application, the Tehsildar concerned constituted a team of revenue officers to demarcate the land of the petitioner and on demarcation, it was found that the petitioner was in possession of the land purchased by him and the petitioner accordingly applied before the respondents for issuance of documents for sale of his land.

03. The learned counsel for the petitioner submits that the Tehsildar concerned was also approached by medium of proper application, detailing therein all the facts, however, instead of issuing the revenue extract, the revenue authorities began to dilly delay the process and delayed the issuance of revenue extracts for sale in favour of the petitioner and during this time, the petitioner came to know that an enquiry had already been ordered in the matter, which revealed that some fraudulent mutations had been attested in respect of the land of the original owners, from whom the petitioner had purchased the said land.

04. It is further case of the learned counsel that in terms of said enquiry report, it came to fore that the original owners

i.e. Sham Katyal and Rajiv Katyal were entitled to 30-kanals and 18-marlas of land which came under the ambit of Agrarian Reforms Act and thereafter obtained land measuring 19-kanals and 12-marlas under Section 7 (Resumption) and through private agreement under Section 12 of the Agrarian Reforms Act. The said land measuring 19-kanals and 12-marlas was mutated vide Mutation No. 2276 in favour of Rajiv Katyal (one share); Sham Katyal (one share); Sudarshan Katyal (one share), Rajesh and Rakesh Katyal sons of Ram Krishan Katyal (one share), meaning that each shareholder got 4-kanals 8-marlas. The said shareholders jointly sold land measuring 14-kanals 3-marlas and 74-sft through different sale deeds, thereby leaving behind land measuring 5-kanals 8-marlas and 198-sfts, meaning thereby that each shareholder was left with land measuring 1-kanal 7-marlas and 49^{1/2} sfts. The said Rajiv Katyal and Sham Katyal jointly sold land measuring 1-kanals 12-marlas and 169-sfts through sale deeds, the remaining 10-marlas 239-sfts were left for each Rajiv Katyal and Sham Katyal. By virtue of another inheritance mutation, land measuring 1-kanal 7-marlas and 49^{1/2}-sfts belonging to Sudarshan Katyal (mother of Rajiv Katyal and Sham Katyal) was mutated equally in favour of Rajiv Katyal and Sham Katyal, which increased the entitlement of Rajiv Katyal and Sham Katyal to 1-kanal 4-marlas and 128-sfts each, out of which they sold 1-kanal 6-marlas jointly, leaving behind 11-marlas 128-sfts each, for Rajiv Katyal and Sham Katyal, which would mean that Rajiv Katyal and Sham Katyal

jointly owned 1-kanal 2-marlas and 256-Sfts. Out of the said land, the said Rajiv Katyal and Sham Katyal sold 17^{1/2} marlas to the present petitioner.

05. The learned counsel for the petitioner submits that that in addition to the above, the original owners were also entitled to land measuring 17-marlas 185-sft, which the respondents are including as the property of one Rasool S/o Rehman Dar R/o Barzulla, Srinagar, who was a tenant of original owners and had fraudulently managed to get a mutation under Section 4 attested, being the prospective owner. The said Rasool had also managed an agreement under Section 12 of the Agrarian Reforms Act by virtue of which he had shown that the original owners had agreed to accept only 5-marlas of land, leaving rest 3-kanals 5-marlas to the said person, namely, Rasool. On the basis of said agreement, mutation bearing No. 2390 under Section 12 of the Agrarian Reforms Act was attested by the Tehsildar, Agrarian Reforms Act. The said mutation came to be challenged by the original owners by virtue of an appeal before the learned Joint Agrarian Reforms Commissioner, Kashmir. However, the said appeal was dismissed by virtue of order dated 10th September, 2005 on the ground of limitation, which order came to be challenged by the original owners i.e. Rajiv Katyal; Sham Katyal; Smt. Sudarshan Katyal; Rajesh and Rakesh Katyal before the Special Tribunal, Srinagar, by virtue of a revision petition and the said revision petition was accepted and the matter was remanded back to the Appellate Authority with the direction

to decide the limitation after affording ample opportunity of being heard to both the parties.

06. It is specific case of the learned counsel after remand of the matter to the Joint Agrarian Reforms Commissioner, Kashmir, the matter was heard and the appeal filed by the original owners accepted and the order passed on mutation No. 2390 for land measuring 3-kanals 10-marlas under Survey No. 1006/54 was set aside and the matter was remanded to the Tehsildar (South), Srinagar, for fresh enquiry and appropriate orders after hearing both the parties. He submits that the Tehsildar (South), Srinagar, after hearing the parties, passed an order under Section 7 of the Agrarian Reforms Act and accepted the application of the original owners filed under Section 7 of the Agrarian Reforms Act for resumption of the land and accordingly attested a fresh mutation in respect of the land in favour of the original owners i.e. Rajiv Katyal and Sham Katyal. By virtue of order dated 11.03.2009, the Tehsildar concerned attested a fresh mutation, whereby the said Rasool was granted proprietary rights over 2-kanals 12-marlas and 223-sfts and Rajiv Katyal and Sham Katyal were granted ownership over land measuring 17-marlas 185-sft. The said mutation came to be challenged by said Rasool, by virtue of an appeal before the Financial Commissioner (Revenue), Srinagar. However, the said appeal was dismissed for non-prosecution on 20.10.2023 and has not been restored till date.

07. The learned counsel for the petitioner submits that is clear that an additional 17-marlas 185-sft of land was still available in the name of original owners and, as such, the sale deed executed in favour of the present petitioner was valid and in accordance with record. However despite the record being in favour of the petitioner, he was denied the revenue extracts for the reasons best known to the respondents.

08. The petitioner being aggrieved has now filed the present writ petition seeking a direction to the respondents to issue the requisite documents/revenue extracts in favour of the petitioner for his land measuring 17^{1/2}-marlas falling under Khasra No. 1006/54, Khata No. 793 and Khewat No. 426 situated at Barzulla, Tehsil South, District Srinagar, so that petitioner would be in a position to effect sale of the said land.

09. After arguing for a while, the learned counsel for the petitioner submits that the petitioner would feel satisfied in case the present writ petition is disposed of at this stage with direction to the respondents to treat this writ petition as representation on behalf of the petitioner and accord consideration to the same along with application alleged to have been filed by the petitioner on 20th June, 2023, within some reasonable timeframe.

10. On the asking of the court, Mr. Jehangir Ahmad Dar, learned Government Advocate has caused appearance on behalf of the respondents and is not averse to the disposal of the instant writ petition at this stage or else to the

submissions made by the learned counsel for the petitioner. However, he submits that the case of the petitioner would be considered in accordance with law and the rules governing the field.

11. Heard learned counsel for the parties and perused material on record.

12. With the consent of the learned counsel for the parties, the instant writ petition is taken up for final disposal and is accordingly disposed of with the direction to the respondent-Deputy Commissioner, Srinagar to treat this writ petition as representation on behalf of the petitioner and accord consideration to the same along with application alleged to have been on 20th June, 2023, strictly in conformity with the rules and as per law, within a period of six weeks, from the date a copy of this Order along with copy of writ petition as also the annexures appended with the writ petition, are made available to the respondents. The order of consideration which is likely to be passed by the respondents, be provided to the petitioners through registered post.

13. Writ petition ***disposed of*** along with connected CM in matter indicated above.

(Wasim Sadiq Nargal)
Judge

SRINAGAR:
20.05.2025
"HAMID"