

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

WP(C) 1353/2025 CM (3575/2025)

Zahra Banoo And Ors.

...Petitioner(s)

Through: Mr. S.A. Makroo, Sr. Advocate with
Mr. Mohammad Iqbal, and Mr. Irfan Rasool, Advocates.

Vs

Union Territory of Ladakh and Ors.

...Respondent(s)

Through: Mr. Mustafa Haji, Advocate.

CORAM

HON'BLE MR. JUSTICE MOHD YOUSUF WANI

ORDER

17.06.2025

1. Heard.
2. Through the medium of the instant petition filed under the provisions of Article 226 of the Constitution of India read with High Court of Jammu and Kashmir Writ Proceeding Rules, the petitioners have assailed the order dated 18.12.2024 passed by the respondent No. 2 on the grounds mentioned in the memo of petition.
3. While seeking the issuance of writ of certiorari for quashing the aforesaid order dated 18.12.2024 of the respondent No. 2, writs of mandamus have also been simultaneously sought for implementation of the orders dated 06.06.2024 and 31.07.2024, passed by the respondent No. 3 and also for restraining the private respondents from changing the present nature/position of the subject matter of the dispute i.e the land falling under Khewat No. 57 Khata No. 67 situated at village Karkit (Karkitcho) Kargil with saddling the payment of costs of the litigation to the tune of Rs. 5 Lacs upon the respondent No. 5, payable to the petitioners.
4. The brief facts of the case relevant for consideration are that one, Mohammad Raza S/O Hussain, R/O Karkitchoo Kargil-husband of Petitioner No. 1, father of petitioners 2 to 9 and brother of petitioner No. 10 filed an application for partition in respect of the subject matter of the

dispute before the Tehsildar, Kargil, but the matter subsequently came to be heard by the Deputy Commissioner, Kargil himself. That the matter again came to be assigned to the Assistant Commissioner (Revenue), Kargil, for disposal under law. That during the proceedings initiated by the respondent No. 3 on the said application, the applicant Mohammad Raza died. That the respondent No. 3 during the proceedings passed orders dated 06.06.2024 and 31.07.2024. That by virtue of the former order dated 06.06.2024, the learned Assistant Commissioner decided to condone that delay in the partition application and to admit the case for partition. While as through the later order dated 31.07.2024, the learned Assistant Commissioner (Revenue)/ respondent No. 3 directed the respondent No. 4 to process the case as per partition Rule 18 and furnish the requisite information in Form III, IV and V of Bandobasti land of Achungpa Family.

5. Aggrieved by the aforesaid orders, the respondent No. 5 assailed the same through the medium of a revision petition before the respondent No. 2 i.e., Financial Commissioner (Revenue), UT of Ladakh. The respondent No. 2 disposed of the revision petition through the order impugned dated 18.12.2024 setting aside the orders dated 06.06.2024 and 31.07.2024 impugned in the revision. The perusal of the impugned order dated 18.12.2024 reveals that the orders dated 06.06.2024 and 31.07.2024 of the respondent No. 3 which were impugned in the revision petition have been set aside on the main ground that the said authority, that is, the respondent No. 3 Assistant Commissioner (Revenue), District Kargil, did not provide opportunity of being heard to all the private respondents herein, thus, observing the principle of natural justice in breach and that the authority concerned was bound to take consent of all the legal heirs of the deceased parties before proceeding to decide the rights in the partition case.

6. The authority below, that is, respondent No. 2, while disposing of the revision petition through the order impugned dated 18.12.2024 appears to

have omitted to remand the matter to the respondent No. 3 for proceeding on the partition case afresh after providing opportunity of being heard to all the stakeholders including the private respondent No's 5 to 26. Otherwise also, the partition petition had not been finally disposed of by the respondent No. 3.

7. Accordingly the instant petition is disposed of with the modification of the order impugned dated 18.12.2024 of the respondent No. 2 i.e Financial Commissioner (Revenue) Union Territory of Ladakh to the effect that with the setting aside of the orders dated 06.06.2024 and 31.07.2024 of the respondent No. 3, i.e, Assistant Commissioner (Revenue), Kargil, who is still seized of the partition petition, the said Respondent No.3 shall proceed afresh with the same strictly in accordance with the law, after providing opportunity of being heard to all the necessary parties, especially the private respondents 5 to 26, towards the final disposal of the same.

8. Disposed of.

(Mohd. Yousuf Wani)
Judge

SRINAGAR:
17.06.2025
"Shahid-SS"