

Serial No. 64 Regular List

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

**WP(C) No. 2355/2021
CM 7557/2021**

Mohammad Hussain Sheikh & Anr.

...Petitioner(s)/Appellant(s)

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

Vs.

Union Territory of J & K & Ors.

...Respondent(s)

Through: Mr. Alla-ud-din Ganie, Sr. AAG with
Mr. Waseem Gul, Advocate.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDE R
08.08.2025

1. Through the medium of the instant petition filed under Article 226 of the Constitution of India, the petitioners have sought the issuance of writs in the nature of *Certiorari* and *Mandamus* to the effect that the notice issued by Respondent No. 4, i.e., Tehsildar Keegam, Shopian (Executive Magistrate First Class), without being any number and date, forming Annexure-I to the petition, requiring them to restore the earlier position in respect of the land measuring 12 Kanals under Survey Nos. 197, 108, and 112 situated at Nowpora Bala, Tehsil Keegam, District Shopian (hereinafter referred to as "the subject land" for short), alleged to be belonging to SIDCO, by surrendering the same, be quashed and the respondents be directed to restrain from evicting or dispossessing them from the subject land except in accordance with the procedure established under law.
2. The case of the petitioners in nutshell is that their forefathers have been in possession of the subject land since last about 100 years, in which they have

planted Italian hybrid trees and about 300 high-density apple trees, which are fruit-bearing. That their predecessors had also constructed a residential quarter on the said land comprising one room, a kitchen, and a washroom. That the name of the owner in the extract of Girdawari is shown as *Sarkar Dawlatmand*, meaning thereby that the said land continues to be in the ownership of the late Maharaja. That the suit land was in the possession of their predecessors as tenants and finally it came to be recorded in the name of their father, namely, Jabbar Sheikh S/o Gani Sheikh, upon whose death, they have been in possession of the said land. That they are aggrieved of the notice purportedly signed by the respondent No. 4 and served upon them by the Chowkidar of the village, whereunder they have been asked to remove the illegal encroachment over the said land within a period of three days. That no number and date has been mentioned in the impugned notice nor the name of any addressee has been mentioned in the same. That the impugned notice confusingly appears to have been issued to the persons from Serial Nos. 1 to 52 without the name of any person. Furthermore, no khasra number, area of the land has been mentioned in the impugned notice. That they visited the office of Respondent No. 4 to obtain a copy of the alleged complaint, on the basis of which, the impugned notice is alleged to have been issued to them, but they were not provided with a copy of any complaint. That after enquiring from the concerned Patwari, they have been informed that till date the entry continues to subsist as stands reflected in the Khasra Girdawari issued in their favour on 29th November 2021, forming Annexure-III to the petition. That the impugned notice has been issued without jurisdiction. That in case the SIDCO claims any right over the subject land, the same can be agitated before the competent civil court. That the issuance of the impugned notice is not guaranteed under the provisions of Section 133 of the Land Revenue Act, as none of the circumstances mentioned therein are attracted in the present case. That no prior explanation or reply has been sought from them by Respondent No. 4, before issuance of the impugned notice, which is bad under law. That as per the impugned notice, they are alleged to have taken the possession of the subject land as belonging to SIDCO, whereas revenue record is contrary to the said contention. That this Court, in an identical case titled “*Mohammad Yousuf Wani v. Union Territory of J&K and*

Others,” WPC No. 2227/2021, has directed the maintenance of status quo in respect of the land involved in the said case.

3. I have heard the learned counsel for the parties in respect of the matter and considered their submissions.
4. The learned counsel for the petitioners, during his arguments, *inter alia* contended that petitioners cannot be evicted or dispossessed from the subject land except in accordance with the procedure as established under law.
5. In the backdrop of the above, this Court is of the opinion that the matter can be disposed of even at this stage by passing of such appropriate orders which are not likely to prejudice the interests of any of the parties. Accordingly, the instant petition is disposed of at this stage with a direction to the respondents that they shall not evict or dispossess the petitioners from the subject land except in accordance with the procedure established under law.
6. **Disposed of.**

(MOHD YOUSUF WANI)
(JUDGE)

SRINAGAR:

08.08.2025

“Hilal”