

S.No.06

Regular List

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

WP(C) 2287/2022

MST. HAJRA

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

Through: None

Vs.

UT OF J AND K AND ORS.

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA
Mr. Owais Ashraf Shah &
Mr. Saqib Fayaz, Advocate for-3

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

11-07-2025

1. The petitioner is aggrieved of an order dated 19.07.2022 passed by the Commissioner, Agrarian Reforms/Additional Deputy Commissioner, Budgam-respondent No. 2, wherunder, he has condoned the delay in appeals filed against mutation No. 509 dated 19.07.1998 and mutation No. 624 dated 12.01.1989 of village Waterwani Tehsil and District Budgam.
2. Briefly stated, the facts leading to the filing of this petition, as stated in the petition are that, the land measuring 2 kanals under survey No. 244 min situated at village Waterwani, Tehsil & District Budgam has been in joint possession of the petitioner and the respondent No.3 as tenants thereof since and before 1971. Accordingly, they were entitled to compensation under the provisions of the Agrarian Reforms Act, 1976. In terms of Section 4 of the said Act, the land vested in the State, and the petitioner along with respondent No. 3 were recorded as prospective owners vide mutation No. 509 of

village Waterwani Tehsil & District Budgam. The petitioner and the respondent No. 3 immediately deposited the levy under section 8 of the Agrarian Reforms Act. Accordingly, mutation No. 624 of village Waterwani was attested in their favour by the Mutation Attesting Officer on 12.01.1989.

3. Respondent No. 3 challenged mutation No. 509 dated 19.07.1988 and mutation No. 624 dated 12.01.1989 by filing an appeal in February, 2020, accompanied by application seeking condonation of delay under section 5 of the Limitation Act. The petitioner filed objection to the said applications.
4. The impugned order dated 19.07.2022 has been challenged on the ground that it was passed without affording opportunity of hearing to the petitioner in the applications for condonation of delay. Furthermore, the order was passed without considering the objections filed by the petitioner and in a most mechanical and perfunctory manner, thereby rendering it non-est in the eyes of law and liable to be quashed.
5. Perusal of the record reveals that this court vide order dated 13.10.2022 directed the status quo with regard to the possession of the parties and the order of status quo continues to be operative as on date.
6. Today, when the instant matter was taken up for consideration, there was no representation on behalf of the petitioner and on the other hand, it has been brought to the notice of the Court by learned counsel for the respondent No.3, (the contesting respondent) that

interim direction is harshly working against the interest of his client and accordingly, he insists that the matter be heard today.

7. Mr. Ilyas Nazir Laway, learned GA has already made a statement that he does not intend to file any reply as the dispute is inter se between the private parties. His statement was taken on record.
8. Heard learned counsel for the respondent No.3 and perused the pleadings as also the record summoned from the respondent No.2.
9. A perusal of the record reveals that the applications for condonation of delay were listed before Respondent No.2 on 9th April, 2022. On that date, counsels for the parties were present, and arguments were heard on the issue of condonation of delay. The matter was then listed again on 31st May, 2022, but was adjourned. Subsequently, it was listed on 19th July, 2022, on which date, the impugned order was pronounced, whereby the applications filed by Respondent No.3 (applicant/appellant) seeking condonation of delay in both appeals were allowed.
10. From a perusal of the impugned order, it emerges that the petitioner herein (respondent in the original proceedings) filed written objections on 06.02.2021 in response to the applications for condonation of delay filed under Section 5 of the Limitation Act. Arguments on the issue of condonation of delay were heard on 09.04.2022 and order was pronounced on 19.07.2022. The Court, after considering the contents of the applications, the written objections submitted by the petitioner, the arguments advanced by the learned counsels for the rival parties, and the material on record, has given a finding that the non-availability of the *parth patwar*

relating to Mutation No. 509, along with interpolations found on the original torn copy of the said *parth patwar*, rendered the entries recorded in Mutation No. 509 suspicious. Additionally, counsel for the respondent herein (appellant in the original proceedings) argued that the mutations had been attested *ex parte* and at the back of the respondent/appellant.

11. Thus, the grounds raised by the petitioner that the impugned order was passed without affording an opportunity of hearing in the applications for condonation of delay, and without proper consideration of the objections filed by the petitioner and in a mechanical and perfunctory manner is contrary to record and, are found to be without merit is accordingly rejected.

12. It is also argued by the learned counsel for respondent No. 3 that the petitioner has not approached this Court with clean hands and has suppressed material facts while filing the instant petition. He further submits that the petitioner deliberately suppressed the information regarding Mutation No. 509. On the other hand, the learned counsel for respondent No. 3 has produced a photostat copy of the said mutation, which had been intentionally suppressed by the petitioner, and the same has been taken on record. A perusal of the aforesaid mutation reveals that the first four columns are missing therein, which was precisely the reason, why respondent No. 2, while passing the impugned order, formed the opinion that the non-availability of the *parth patwar* relating to Mutation No. 509, along with interpolations on the original torn copy of the said *parth patwar*, rendered the entries recorded in Mutation No. 509 suspicious.

Therefore, with a view to do complete justice, the application for condonation of delay was allowed, and the matter was listed for arguments in the main appeals.

13. Since the petitioner was aware of interpolations in the original copy of the *parth patwar* and the omission of relevant columns in the mutations, the petitioner deliberately suppressed this document. Therefore, this Court is of the view that the petitioner has not approached the Court with clean hands and has intentionally concealed material facts in order to mislead the Court and obtain an interim order.

14. For the forgoing reasons, the present petition is found to be without merit and the same is accordingly **dismissed**. Consequently, the impugned order dated 19.07.2022 passed by the respondent No.2 (Commissioner Agrarian Reforms/Additional Deputy Commissioner Budgam) is upheld.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
11-07-2025
Mubashir