

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) 2441/2025 CM(6490/2025)

NISSAR AHMAD MALIK

...PETITIONER (s)

Through: Mr. Gulzar Sopori, Adv.

VERSUS

UNION TERRITORY OF J AND K AND ORS

Through:.

...RESPONDENT(s)

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE.

ORDER(ORAL)

10.10.2025

1. The petitioner in the instant petition seeks quashing of orders dated 25-08-2025, 24-02-2025 as also order dated 28-11-2023 passed by Financial Commissioner, Divisional Commissioner herein and Additional Deputy Commissioner, Sopore respectively.
2. The grievance of the petitioner is that he is in possession of less Shamilat land than the petitioner is entitled to under Shamilat Rule 5 land and that the petitioner was not given any opportunity of being heard to defend his case by the Additional Deputy Commissioner Sopore Baramulla while adverting to the claim of the petitioner and that the respondents cannot deprive the petitioner of Rule 5 Shamilat land which he is entitled to without following principles of natural justice and that even the Financial Commissioner wrongly observed that the father of the petitioner has been in possession of 4 kanals and 13 marlas

of Shamilat land, whereas the petitioner instead has been in possession of only 1 kanal and 12 marlas of land

Heard counsel for the petitioner and perused the record.

3. Perusal of the record available on the file would reveal that a dispute with regard to the construction of a pond covered under Survey No. 380/1 over Shamilat Rule 5 land of estate Hathlangoo came to be raised by the inhabitants of the area to which the petitioner objected resulting into filing of the proceedings by the inhabitants before Additional Deputy Commissioner Sopore who vide order dated 28-11-2023 observed that the construction of pond over Shamilat land by the Irrigation department is in public interest and that inhabitants of the area can donate their Shamilat Rule 5 land for construction thereof, while further directing the Executive Engineer Irrigation flood control department to take necessary measures for fencing the entire areas so that the said land is put to judicious use. The said order passed by the Additional Deputy Commissioner upon being thrown challenge to by the petitioner came to be upheld by the Additional Commissioner Kashmir with powers of Divisional Commissioner vide order dated 02-04-2025 and feeling aggrieved thereof, the petitioner herein questioned both the orders before the Financial Commissioner which resulted into passing of the order dated 25-08-2025 and consequently the petitioner challenged all three aforesaid orders in the instant petition.
4. A closer examination of the impugned order dated 25-08-2025 would reveal that Financial Commissioner Revenue has upon examination of the record found that the pond in the village stands constructed in the year 2009 and till

that time the petitioner did not object to the construction of the same or else to the utilization of the land there for the said purpose besides having noticed that the petitioner thereafter encroached upon the land abutting the pond by dumping material there on the spot. It also gets revealed from the perusal of the impugned order that the Financial Commissioner Revenue has after hearing the parties and upon perusal of the record found that the village in question has 4379 kanals and 9 marlas of proprietary land and 1073 kanal and 4 marlas of Shamilat Rule 5 land and that from the said Shamilat Rule 5 land, 5 marlas approximately each has fallen to the share of the land holders of the village in question and consequently the father of the petitioner was found entitled to 3 kanal and 5 marlas of the Shamilat Rule 5 land on pro-rata basis as against his proprietary land. The Financial Commissioner Revenue has also taken cognizance of the entries made in the revenue records wherein instead of 3 kanal and 5 marlas of Shamilat land, the father of the petitioner was found have an entry of 4 kanal 13 marlas of shamilat land, thus, there being an excess of 1 kanal and 8 marlas of Shamilat Rule 5 land. It also gets revealed from perusal of the impugned order that Financial Commissioner Revenue has also found the plea of the petitioner that he was condemned unheard by Additional Deputy Commissioner while dealing with the matter as factually incorrect and upon having an overall view of the matter, the Financial Commissioner seemingly has considered the grievance of the petitioner, the claim set up qua Shamilat Rule 5 land against 1 kanal 8 marlas as also the plea of the petitioner that he was condemned unheard and passed order dated 25-08-2025 which

order appears to have passed without having committed any fault, illegality, irregularity or perversity.

5. Viewed thus, the petition is found to be grossly misconceived, as such, this Court is not inclined to exercise discretion more so in view of involvement of complicated disputed questions of facts.
6. The petition accordingly is dismissed.

(Javed Iqbal Wani)
Judge

SRINAGAR
10.10.2025
Sarvar