

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

WP (C) No. 2591/2025
CM NO. 6866/2023

1. ABDUL RASHID SHEIKH (AGED 55 ...Petitioner(s)/Appellant(s)
YEARS)
S/O ALI MOHAMMAD SHEIKH
R/O KHEWAT HOLDER OF VILLAGE
BOH
TEHSIL D.H. PORA, DISTRICT
KULGAM
2. NISAR AHMAD, (AGED 43 YEARS)
3. MST. SHAKEELA, (AGED 45 YEARS)
4. MST. MEEMA, (AGED 41 YEARS)
SON AND DAUGHTERS OF MST. LATE
ZARIFA
R/O NAGAM, TEHSIL D.H. PORA
DISTRICT KULGAM

Through: Mr. Owais Majeed Dar, Advocate

Vs.

1. UT OF JAMMU AND KASHMIR ...Respondent(s)
THORUGH COMMISSIONER
SECRETARY REVENUE CIVIL
SECRETARIAT SRINAGAR
2. COMMISSIONER AGRARIAN REFORMS
KULGAM
3. TEHSILDAR, D.H. PORA KULGAM

(Official Respondents)

4. REHMAN GANIE S/O RAZAK GANIE
R/O BOH TEHSIL D.H.PORA, DISTRICT
KULGAM

(Contesting Private Respondent)

5. NISAR AHMAD
6. MUKHTAR AHMAD
7. SHABIR AHMAD
8. AIJAZ AHMAD
9. BILAL AHMAD
10. SHOWKAT AHMAD
11. IRFAN AHMAD
12. MST. AYESHA
13. MST. MEHMOODA
SONS AND DAUGHTERS OF LATE
MOHAMMAD MAQBOOL SHIEKH, ALL
RESIDENTS OF VILLAGE BOH, TEHSIL
D.H. PORA, DISTRICT KULGAM

(Proforma Respondents)

Through:

ORDER
28-10-2025

1. The petitioners, by the medium of the present petition filed under Article 226 of the Constitution of India, have sought the following reliefs:

- a. writ of Certiorari be issued to quash the impugned order dated 08.08.2025 in File No. 7/8 passed by the Commissioner, Agrarian Reforms, Kulgam, whereby the condonation application of the petitioners has been dismissed.
- b. writ of Mandamus be issued, directing the Commissioner, Agrarian Reforms, Kulgam, to consider the petitioners' challenge to *Mutation No. 1024 (dated Nil)* attested by the Tehsildar Agrarian Kulgam and *Mutation No. 1033 dated 23.12.1986* attested by the Tehsildar Agrarian Kulgam on merits, after affording an opportunity of hearing.
- c. To pass such other order(s) as this Hon'ble Court may deem fit and proper in the interest of justice.

2. The petitioners are aggrieved of the order dated 08.08.2025 passed by respondent-the Regional Director, Survey and Land Records, Srinagar (at Kulgam), exercising powers of Agrarian Reforms Commissioner, whereby the application seeking condonation of delay filed by the petitioners has been rejected as being devoid of merit, and consequently, the appeal has been dismissed as barred by limitation.

3. The specific case set up by the petitioners is that the order impugned travels beyond the mandate of Section 5 of the Limitation Act, 1963, and is based on an alien affidavit rather than a judicial finding regarding "sufficient cause" while dismissing the condonation of delay application. It is pleaded that the power to condone delay under Section 5 of the Limitation Act is intended to advance substantial justice by enabling adjudication on merits rather than on technicalities.

4. It is further urged that the expression “sufficient cause” is elastic and ought to be construed liberally to subserve the ends of justice, whereas in the present case, the condonation application has been dismissed in a mechanical and perfunctory manner.
5. It is also contended that respondent No. 2 erred in law by treating a private affidavit between the parties as determinative of ownership rights under the Jammu and Kashmir Agrarian Reforms Act, 1976. The petitioners assert that ownership under the said Act flows only by operation of statute, on the basis of cultivating possession as reflected in the Jamabandi and Girdawari of September 1971 and not through private agreements or affidavits. The petitioners have denied execution of any such affidavit before the appellate authority, however, their contention was not accepted, resulting in rejection of the condonation of delay application.
6. Heard learned counsel for the petitioners at length and perused the material available on record.
7. The petitioners have urged that Mutations Nos. 1024 and 1033 were attested *ex parte* and that they came to know about the same only in October 2022. However, the record reveals that petitioner No. 1 had executed an affidavit placed on record by the private respondents, acknowledging that the land covered by the impugned mutations was in possession of the respondents prior to 1971.
8. In light of the said material, the plea that the petitioners had no knowledge of the impugned mutations till October 2022 stands contradicted by the record and is, therefore, untenable.

9. Upon perusal of the impugned order, this Court finds that respondent No. 2 has rightly observed that the petitioners failed to disclose any specific date or source from which they allegedly came to know of the impugned mutations. The application for condonation of delay was bereft of particulars and unsupported by any cogent evidence. The finding of respondent No. 2 that vague pleas cannot substitute proof of sufficient cause, and that oral assertions or unsubstantiated claims cannot dislodge the respondents' possession as tenants under the Agrarian Reforms Act, 1976, is well-founded. The affidavit executed in 1986 carries a presumption of due execution and further strengthens the respondents' possession.
10. In view of the aforesaid discussion, this Court is of the considered opinion that, in the absence of any sufficient cause having been pleaded or proved for condoning the inordinate delay, respondent No. 2 has rightly dismissed the application for condonation of delay along with the appeal as being time-barred.
11. The impugned order dated 08.08.2025 does not suffer from any legal infirmity warranting interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.
12. Accordingly, the writ petition, being devoid of merit, is dismissed.

(WASIM SADIQ NARGAL)
JUDGE

SRINAGAR:
28-10-2025
Mubashir

Whether the order is speaking: Yes
Whether the order is reportable: Yes/NO