

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

OWP 1435/2018

Surjeet Singh & Anr.

...Petitioner(s)

Through: Ms. Shazia, Advocate vice
Mr. S.A. Naik, Sr. Advocate

State of J&K and Ors.

...Respondent(s)

Through: Mr. Bikramdeep Singh, Dy. AG for R-4.
Ms. Nadiya Abdullah, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

09.09.2025

1. In terms of an order dated **22.07.2025**, the petitioners were accommodated by this Court to place the purported requisite material on record on the basis of which the petitioners intended to say that similarly situated displaced shopkeepers, who were running the shops at the relevant point of time came to be rehabilitated by the Government, on the parity of which the petitioners are seeking the indulgence of this Court to grant them the reliefs as prayed for in the writ petition.

2. The petitioners have not come forward with any such requisite motion for placing on record the purported material.

3. There cannot be recurring time granted in favour of the petitioners so as to build up a case after its institution and during its pendency.

4. From the perusal of the writ petition, some salient facts came to the fore.

5. The two petitioners are real brothers who claim that they along with their father late S. Jagat Singh were having a tenanted shop situated in the premises of Shree Somyar Mandir Building Complex, Habba Kadal Srinagar first taken on rent in 1989 from the Trust running the affairs of Shree Somyar Mandir, on the basis of which tenancy they came to setup their jewellery business there at, but later on due to onset of militancy in Kashmir Valley in 1990, the petitioners along with their father were compelled to close the said shop, without stating further as to whether they fled away from the Valley.

6. In addition, the petitioners submit that in the premises of Shree Somyar Mandir Complex, a CRPF Camp came to be established and the deployed forces

came to take over the possession of the entire Shree Somyar Mandir premises including the demised shop in reference with the result the petitioners were not in a position to use the demised shop for their jewellery business.

7. The petitioners have pleaded in the writ petition that they kept on approaching the Camp Officer for allowing them to open the said shop only to be assured that till the normalcy returns they would have to wait.

8. It is in this context that the petitioners are referring to some communications related to the issue as set out in paragraphs 5 and 7 of the writ petition to purportedly draw out a cause of action to come in the year 2018 with the present writ petition instituted on **31.07.2018** asking for the relief of mandamus unto the writ respondents to rehabilitate the petitioners by allotting a shop in their favour either at Habba Kadal or Shopping Complex near Jehangir Chowk or Rambagh Srinagar or pay them the compensation in lieu of the shop occupied by the Security Forces.

9. The reliefs so prayed for by the petitioners are contradictory to each other which exposes that the

petitioners are trying to exploit a situation without having any right vested in them viz-a-viz the State and its Authorities.

10. In the entire writ petition, the petitioners have not whispered as to in which particular year they came to suffer, so to say, ouster from the demised shop.

11. Surely, the petitioners have not claimed themselves to be migrants so as to claim the benefit of Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997 and that proves the fact that petitioners never ever migrated from the Kashmir Valley to suffer a delink from their demised shop.

12. If the petitioners would have actually suffered the loss of the demised shop because of the occupation by the Security Forces in the form of CRPF deployment in the Shree Somyar Temple Complex then the petitioners ought to have immediately resorted to civil court remedy or even approached this Court at the relevant point of time complaining about the fact that the deployment of CRPF was not meant to deny them their right to livelihood which they were

purportedly making from the running of the demised shop, but the petitioners did nothing of that sort and waited till 2018 to come up with the fanciful claim as if the State owed them an obligation of rehabilitation for the loss of their shop.

13. Surely, the petitioners were the tenants of the Trust and could have resorted to an appropriate course of action against the Trust so as to retrieve their lost shop which was never done by them and that meant abandonment of their claim.

14. The filing of the present writ petition was nothing but an afterthought by the petitioners becoming wise after event so as to draw parity with the shopkeepers displaced in the flyover construction in the locality of Jehangir Chowk, which parity was never available to the petitioners to lay claim for the writ reliefs.

15. Hence the writ petition filed by the petitioners is nothing but frivolous and without merit, and the same is accordingly **dismissed**.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

09.09.2025

"Mir Arif"