

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

...

OWP No. 291/2015

Reserved on: 21.07.2026
Pronounced on: 30.07.2026
Uploaded on: 30.07.2026

Whether the operative part or full
Judgment is pronounced: **Full**

Sadiq Ali and ors.

.....Petitioner(s)

Through: Mr. Sandeep Singh, Advocate

Versus

State of J&K and ors.

.....Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffer, Advocate
Mr. Ayjaz Lone, Advocate

CORAM: HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioners have filed this writ petition for quashing SRO-212 dated 08.07.2014, whereby it is claimed by them that their land comprising Survey Nos. 6, 8, 10, 11 and 12 of village Sirah, Tehsil Katra, District Reasi, and Survey No. 680 measuring 6 kanals and 9 marlas of village Dharote, Tehsil Katra, District Reasi, has been declared as Waqf property.
2. It is stated by the petitioners that land measuring 17 kanals and 18 marlas, comprising Survey No. 6 situated at village Sirah Kotla, was owned by Shiv Ditta and others in the record of rights of 1998-99 (BK), but was in the possession of late Shri Fateh Ali, S/o Gulab Shah.

Likewise, land comprising Survey No. 8 measuring 23 kanals and 2 marlas was recorded in the name of Amar Nath and others as owners in the record of rights of 1998-99 (BK), but this land was also cultivated by Shri Gulab Shah, who was the great-grandfather of the petitioners. It is further contended in the petition that Survey Nos. 9, 10, 11 and 12, recorded as “Shamlat Deh” in the record of rights of 1998-99 (BK), were in the possession of Shri Gulab Shah, and by virtue of a Government order, land measuring 9 kanals and 5 marlas only was recorded in the name of Khankah Panjpeer, whereas land measuring 41 kanals and 6 marlas comprising Survey Nos. 9, 10, 11 and 12 of village Sirah was granted to late Shri Gulab Shah. It is further submitted that upon the death of Gulab Shah, the property was inherited by Fateh Ali, who subsequently passed away leaving behind Gulsher Shah as his heir. Thereafter, the subject property devolved upon the petitioners and proforma respondents by virtue of the Mutation of Inheritance attested on 08.05.2014.

3. The petitioners have impugned SRO-212 dated 08.07.2014 by stating that the action of the official respondents in declaring the subject property as Waqf is clearly violative of the principles of natural justice, as the petitioners were not provided an opportunity of being heard before declaring their property as falling under the occupation of Ahli Islam. It is also the contention of the petitioners that the official respondents have declared the property of the petitioners as Waqf on the basis of erroneous revenue entries, whereas the old record clearly suggests that the property was in the possession of the forefathers of the

petitioners as tillers. It is also urged that, before declaring a property as Waqf, the respondents were required to hold an inquiry, which has not been done in the instant case, and that the property which was in the possession of the Khankah had already been segregated by the Government, while the remaining property was granted to Gulab Shah, who was the great-grandfather of the petitioners.

4. Respondent Nos. 1 to 3 have filed their response, admitting therein that pre-settlement Khasra No. 6 measuring 17 kanals and 18 marlas, situated in village Sirah Kotla, was recorded in the name of Shiv Ditta and others as mortgagors and one Kashmir Singh as mortgagee in the Jamabandi for the year 1998-99 (BK) of village Sirah Kotla. In the cultivation column of the said Jamabandi, one Fateh Ali stood recorded as a non-occupancy tenant (Gair Maroosi). Likewise, land measuring 23 kanals and 2 marlas comprising Survey No. 8 was recorded in the name of Amar Nath and others, and one Gulab Shah as a non-occupancy tenant (Gair Maroosi) in the cultivation column of the Jamabandi for the year 1998-99 (BK). It is further stated that Survey Nos. 9, 10, 11 and 12 were recorded as “Shamlat Deh” and, in the cultivation column, the said land was recorded as “Khankah Panj Peeran” situated in the village and being managed by Gulab Shah, as per the Jamabandi for the year 1998-99 (BK). Vide Government File No. 119 dated 05 Maag (Maghar), 1966, land measuring 41 kanals and 6 marlas comprising Survey No. 9 (4 kanals and 1 marla) and Survey No. 10 (37 kanals and 5 marlas), with land revenue of Rs. 9.05, has been recorded in the revenue record in the name of the “Khankah” till its existence.

5. The respondents have disputed Mutation No. 36 dated 08.05.2014 on the ground that it does not establish any link between Gulab Shah and the petitioners, as the caste of Gulab Shah has been recorded as "Sheikh", whereas the caste of the petitioners in Mutation No. 36 dated 08.05.2014 has been recorded as "Faqiur", which creates doubt about the petitioners being the legal descendants of the said Gulab Shah. It is further averred that, during the settlement operations in village Sirah Kotla, a new village, namely Sirah, was carved out from the erstwhile village Sirah Kotla, for which a fresh record of rights was prepared for the year 2004-2005. In the pre-settlement revenue record pertaining to village Sirah Kotla, the quantum of land was recorded in local kanals, whereas in the post-settlement revenue record, the same has been recorded in standard kanals. The pre-settlement Survey No. 10 measuring 37 kanals and 5 marlas and Survey No. 9 measuring 4 kanals and 1 marla were ordered to be recorded in the revenue record in the name of the Khankah, and out of these two Survey Nos., three post-settlement Survey Nos. i.e. Survey Nos. 10 (20 kanals and 13 marlas), 11 (8 marlas) and 12 (2 kanals and 15 marlas), were formed. It is further stated that pre-settlement Survey No. 11 (29 kanals and 7 marlas), Survey No. 12 (18 kanals and 5 marlas) and Survey No. 13 (6 kanals and 4 marlas) were not ordered to be recorded in the revenue record in the name of the Khankah, and post-settlement Survey No. 6 (30 kanals and 8 marlas) and Survey No. 8 (4 kanals and 1 marla) were formed out of these three pre-settlement Survey Nos. Hence, land measuring 30 kanals and 8 marlas comprising Survey No. 6 and land

measuring 4 kanals and 1 marla comprising Survey No. 8 has not been recorded in the name of the Khankah. The variation in the quantum of land has occurred due to the conversion of land from local kanals to standard kanals in the revenue record.

6. Respondent No. 4 has merely echoed the position of respondent Nos. 1 to 3, asserting that a new village, Sirah, was carved out and, out of old Survey Nos. 9 and 10, new Survey Nos. 10 (21 kanals and 13 marlas), 11 (8 marlas) and 12 (2 kanals and 5 marlas) were formed after the settlement in the year 2004-2005. It is further stated that the “Shamlat land” comprising pre-settlement Survey Nos. 9, 10, 11 and 12 is recorded in the Jamabandi of 1998-99 (BK) as being in the possession of “Khankah Panj Peer” and managed by the said Gulab Shah. Out of pre-settlement Survey Nos. 9, 10, 11, 12 and 13, new Survey Nos. 6, 8, 10, 11 and 12 were formed after settlement, and these new Survey Nos. have been notified as Waqf property as being under the possession of the Khankah. It is further stated that perusal of the revenue record relied upon by the petitioners would show that the land in possession of the Khankah was being managed by the said Gulab Shah, who was not related to the petitioners. Therefore, the status of Gulab Shah as Manager does not confer any right or title upon Gulab Shah or any other person claiming through him.
7. Heard learned counsel for the parties and perused the record.
8. The petitioners, for the purpose of assailing SRO-212 dated 08.07.2014, have relied upon the revenue record for the year 1998-99 (BK). As per Government File No. 119 dated 05 Maag (Maghar), 1966, land

measuring 41 kanals and 6 marlas comprising Survey Nos. 9 and 10 was allotted to the Khankah with revenue of Rs. 9.05. The respondents have stated that even in the old revenue record (Annexure C), relied upon by the petitioners, the “Khankah” has been shown to be in possession of land comprising Khasra Nos. 9, 10, 11, 12 and 13, and Gulab Shah has been shown only as its Manager/Caretaker. It is the categorical stand of the Revenue Department that land comprising old Survey Nos. 6 and 8 is owned by Shiv Ditta and others and Amar Nath and others, respectively.

9. It is the positive case of respondent No. 4 that out of pre-settlement Survey Nos. 9, 10, 11, 12 and 13, new Survey Nos. 6, 8, 10, 11 and 12 were formed after the settlement of 2004-2005, and these Survey Nos. have been notified as Waqf property.
10. The petitioners have challenged SRO-212 dated 08.07.2014 solely on the basis of the pre-settlement revenue record containing the old Survey numbers, which stand substituted by the post-settlement Survey numbers after the settlement operations of 2004-2005. The petitioners have failed to challenge the post-settlement revenue record or to establish any discrepancy between the old and the new Survey numbers. Consequently, the challenge to the impugned notification is misconceived and without merit. The land comprising survey Nos. 6 and 8 under new settlement is in fact land comprising survey Nos. 9 and 10, which were transferred to Khankah in the terms of Government order *ibid*, whereas the land comprising Survey Nos. 10, 11 and 12 as per the new settlement is the “Shamlaat Deh” recorded as Survey Nos.

11, 12 and 13 in old revenue record of 1998-99(BK). Even if the claim of the petitioners as legal heirs of Gulab Shah is accepted, even then they have no locus to challenge the SRO impugned in this petition as status of Gulab Shah was that of Manager/Caretaker only and not the owner. The petitioners, claiming through Gulab Shah, cannot possess a legal status or right better than that of their predecessor-in-interest.

11. The petitioners have challenged the impugned SRO solely on the basis of archaic revenue records, ignoring the fact that the survey numbers were revised during the subsequent settlement proceedings. This writ petition, is found to be misconceived and is accordingly, **dismissed**. Interim directions shall stand vacated.

(Rajnish Oswal)
Judge

Jammu
30.07.2026
Karam Chand

