

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

OWP No. 1194/2011

IA No. 1163/2011

Date of pronouncement: 02.07.2026

Uploaded on: 03.07.2026

**Majid Ahmed Khan, Age 65 Years
S/o Anayatullah Khan, R/o Village
Sarhuti/Gohlad, Tehsil Mendhar,
District Poonch**

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

Through:- Mr. Vasharan Thakur, Advocate

V/s

- 1. J&K Special Tribunal, Jammu**
- 2. Custodian Evacuee Property,
Jammu**
- 3. Deputy Custodian Evacuee
Property, Poonch**
- 4. Mahesh Chander, S/o Sh. Krishan
Lal, R/o Gohlad, Tehsil Mendhar,
District Poonch**

.....Respondent(s)

Through:- Mrs. Monika Kohli, Sr. AAG
Mr. K S Puri, Advocate with
Mr. Shariq Mehmood, Advocate for R-4

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE
ORDER (ORAL)

1. Heard both the counsels and examined the record.
2. The parties are embroiled in a dispute concerning evacuee land measuring 11 marlas comprised in Khasra No. 73 situated at Village Gohlad, Tehsil Mendhar, District Poonch. Respondent No. 4 claims that the said land had been allotted to his father, late Krishan Lal, whereas the petitioner has called in question the order dated 23.05.2011 passed by the J&K Special Tribunal in revision against the order dated 11.11.2003 passed by the Custodian Evacuee

Property, Jammu, whereby the parties had been directed to maintain status quo with respect to the land in dispute.

2. The facts, in brief, are that respondent No. 4, Mahesh Chander, initially approached the Deputy Custodian Evacuee Property, Poonch, seeking regularization of the aforesaid land on the plea that it had been allotted to his father, Krishan Lal, a displaced person from Pakistan Occupied Kashmir, as reflected in the Misal Haqiat (Record of Rights) for the year 1961–62. According to respondent No. 4, the land formed part of evacuee property under the management of the Custodian Department.
3. Pursuant to an order dated 22.10.2003, the Deputy Custodian, Poonch, after verifying the relevant records and examining the spot position, found that the land in question was evacuee property and that 11 marlas thereof had been allotted to Krishan Lal, who had expired on 01.01.2001. It was further noticed that during his lifetime, Girdawari in respect of 6 marlas had been entered in favour of the present petitioner and that of the remaining 5 marlas in favour of respondent No. 4.
4. The Deputy Custodian also found that the petitioner was in possession of an additional 2 marlas under Khasra No. 74, which was not the subject matter of dispute. Upon examining the record, it was concluded that the actual dispute in Khasra No. 73 related only to 3 marlas and 6 sarsai, while the land under Khasra No. 74 was in the possession of the petitioner.

5. In order to resolve the controversy, the Deputy Custodian directed that the disputed land measuring 3 marlas and 6 sarsai be divided equally between the parties in the presence of the concerned Patwari Halqa and the Naib Tehsildar. It was further directed that both parties should execute lease agreements with the Custodian Department in respect of the land and furnish the requisite undertakings. Certain ancillary directions were also issued.
6. Aggrieved by the aforesaid order, the petitioner preferred a revision before the Custodian Evacuee Property, Jammu, on 11.11.2003. Although respondent No. 4 had already lodged a caveat, the Revisional Authority issued notice to the caveator and simultaneously directed the parties to maintain status quo. During the pendency of the revision, respondent No. 4, in the year 2011, challenged the interim order dated 11.11.2003 before the J&K Special Tribunal by invoking its revisional jurisdiction. The revision came to be allowed vide order dated 23.05.2011, whereby the Tribunal held that the petitioner had, without any lawful authority and in connivance with the Patwari, managed to secure the entry of Girdawari in his favour in the revenue record. It further held that the petitioner had no right to seek allotment or regularization of the land in his possession and that the Deputy Custodian had erred in directing partition of the property. The Tribunal also observed that, as per the Misal Haqiat, Khasra No. 73 had originally been allotted to Krishan Lal and that, over time, substantial portions thereof had

come under the occupation of various persons, leaving only a part in the possession of the legal representatives of the original allottee.

7. Consequently, the Tribunal directed the Assistant Custodian, Mendhar, to hand over possession of 1 marla and 7½ sarsai to respondent No. 4 and further held him entitled to all rights flowing from the allotment of land measuring 9 marlas under Survey No. 73. It is this order which has been challenged by the petitioner in the present proceedings.
8. After hearing learned counsel for the parties, it was fairly conceded that the order dated 22.10.2003 passed by the Deputy Custodian was amenable to revision before the Custodian Evacuee Property, Jammu. However, it was equally conceded that the Revisional Authority ought not to have interfered with the order of the Deputy Custodian at the threshold, particularly when respondent No. 4 had already entered appearance on caveat. It was further conceded that the order dated 11.11.2003 passed by the Custodian Evacuee Property was merely an ad interim order directing maintenance of status quo and was always subject to objections by the caveator. Consequently, such an interim order ought not to have been interfered with by the Special Tribunal while exercising its revisional jurisdiction.
9. Learned counsel appearing for respondent No. 4 emphasized that the petitioner was an unauthorized occupant of the land. This contention was disputed by learned counsel for the petitioner, who submitted that the Deputy Custodian had nowhere described the petitioner's

possession as unauthorized. It was argued that the Special Tribunal, without properly examining the record, had interfered with an ad interim order which did not warrant revisional interference.

10. Having considered the rival submissions and perused the record, it is evident that the order dated 11.11.2003 passed by the Custodian Evacuee Property, Jammu, was purely in the nature of an ad interim direction requiring the parties to maintain status quo till further orders, and the matter itself had been posted for 15.11.2003. It is also evident that respondent No. 4 had already entered appearance and participated in the proceedings by filing a caveat. Nevertheless, after almost eight years, the Special Tribunal entertained the revision and, in the absence of the petitioner, proceeded to set aside the interim order.
11. The principal question that falls for determination is whether the Special Tribunal, while exercising its revisional jurisdiction, was justified in interfering with an ad interim order passed by the Custodian Evacuee Property. The answer must necessarily be in the negative. Being the superior judicial forum and the final fact-finding authority under the Custodian laws, the Tribunal ought to have refrained from interfering with an interlocutory order, particularly when the substantive rights of the parties had yet to be adjudicated by the competent Revisional Authority.
12. Although it was argued that adequate opportunity of hearing had been afforded to the petitioner before the Tribunal, the same has been

seriously disputed. According to the petitioner, the impugned order was passed in his absence.

13. Be that as it may, the order passed by the Special Tribunal suffers from manifest impropriety. The petitioner had challenged the order dated 22.10.2003 before the Custodian Evacuee Property, Jammu, and the Revisional Authority was required to adjudicate the legality of the order passed by the Deputy Custodian. The Special Tribunal ought not to have exercised revisional jurisdiction at an intermediate stage by interfering with a purely ad interim order, as such interference was likely to impede the proper administration of justice.
14. Accordingly, the intervention by the Special Tribunal was wholly unwarranted. The impugned order, being legally unsustainable, is set aside. The parties are relegated to the Revisional Authority, Custodian Evacuee Property, Jammu, before whom the petitioner's revision against the order dated 22.10.2003 shall stand restored for consideration and disposal in accordance with law.
15. The parties shall appear before the Revisional Authority, Custodian Evacuee Property, Jammu, along with their respective counsel on 22.07.2026. Having regard to the fact that the dispute has remained pending for a considerable period, the Revisional Authority is expected to make earnest efforts to dispose of the revision within a period of two months from the date of receipt of a copy of this order.
16. The record be returned forthwith.

17. The writ petition, along with all connected applications, stands
disposed of.

(Sanjay Parihar)
Judge

JAMMU
02.07.2026
Asif Tantray

Whether the order is speaking: Yes
Whether the order is reportable: No

