

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

**Case No: OWP No. 282/2019
CM No. 2664/2023
CM No. 1398/2019 [1/2019]**

*Reserved on : 10.09.2026
Pronounced on : 18.09.2026
Uploaded on: 18.09.2026*

Vakil Singh, aged 65 years S/O Shri
Kamal Singh R/O Village Ladhyala,
Tehsil and District Udhampur.

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

Through: Mr. R.P.Sharma, Sr. Advocate with
Ms. Shazia Khanam, Advocate

Vs.

1. State of J&K through Commissioner
Secretary, Revenue Department,
Jammu.
2. Financial Commissioner (Revenue),
Jammu.
3. Deputy Commissioner, Udhampur.
4. Uttam Singh S/O Sh. Chett Ram
5. Shakti Singh, S/O Sh. Badri Nath,
6. Romel Singh, S/O Sh. Sunit Singh,
7. Chain Singh S/O Sh. Sunit Singh
8. Hans Raj S/O Sh. Hari Chand
All residents of Village Ladhyala,
Tehsil and District Udhampur.

.... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG
Mr. I.H.Bhat, Advocate

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioner, through the medium of the present petition, has
challenged order dated 06.02.2019 passed by the learned Financial
Commissioner (R), Jammu, whereby the Revision Petition filed by the

petitioner against judgment and order dated 06.12.2017 passed by the Divisional Commissioner, Jammu, has been dismissed.

2. As per the case of the petitioner, respondents 4 to 8 (hereinafter referred to as “private respondents”) filed a suit under Section 32 of the Land Revenue Act against the petitioner before the Court of Deputy Commissioner (Collector), Jammu. In the said suit, the private respondents sought a direction for correction of the Record of Rights appearing in the Settlement (Misal Haqiat) prepared in the year 2010-2011 in respect of village Ladhyala, Patti Chakla, Tehsil and District Udhampur, with respect to the land comprising in Khasra No. 300 situated in Village Saley. Vide order dated 30.06.2017, the said suit was decided by the Collector, Udhampur in favour of the private respondents, and it was ordered that the land measuring 10 Kanal 11 Marlas under new Khasra No. 300, corresponding to old Khasra No. 2639, be recorded in the Record of Rights for the year 2010-2011, Tarf Saley, and land measuring 14 Kanals 11 Marlas under new Khasra No. 300 be entered against old Khasra No. 2655, Tarf Ladala. Besides this, the action of the Tehsildar, Udhampur, omitting the recorded entry of the petitioner in Rabi 2012 from new Khasra No. 300, corresponding to old Khasra No. 2639, has been confirmed.
3. The aforesaid order of the Collector, Udhampur, was challenged in appeal by the petitioner before the Divisional Commissioner, Jammu, who, vide order dated 06.12.2017, dismissed the said appeal and upheld the order of the Collector.
4. The aforesaid order passed by the Divisional Commissioner, Jammu, came to be challenged by the petitioner by way of a Revision Petition

before the Financial Commissioner (R), Jammu, who, vide the impugned order, proceeded to dismiss the Revision Petition.

5. It is case of the petitioner that his father, Kamal Singh, and his ancestors were big landlords. It has been submitted that after the advent of the J&K Big Landed Estates Abolition Act, the owners were given an opportunity to make an application for selection of their lands, as per their choice, up to 182 Kanals of land which they wanted to retain. In the case of the father of the petitioner, the Special Tehsildar, without obtaining his choice, made selection of the land. The order of the Tehsildar, made on 20th Phagun 2008, was challenged by way of a Revision Petition before the Financial Commissioner, Jammu, and vide order dated 01.02.1962, the order of the Special Tehsildar was set aside and the Tehsildar was directed to obtain claims from the landlords and attest fresh mutations in terms of Section 4 of the J&K Big Landed Estates Abolition Act.
6. It has been submitted that the Additional Tehsildar, Udhampur, passed a fresh order on 24.05.1978, and the fresh claim of the father of the petitioner was accepted, as a consequence whereof, the land under Survey No. 2639 min, measuring 25 Kanals 19 Marlas, in Village Malahar, was selected by the father of the petitioner. It has been submitted that the father of the petitioner continued to be in possession of the land comprised in Survey Nos. 2655 and 2639 in his capacity as one of the owners of the land falling in Village Ladhyala, of which Shamilat was identified, recorded and measured to the extent of 193 Kanals 05 Marlas in Survey No. 2639, as also for Khasra No.

2639. It has been submitted that the petitioner had a vested right of a paritable share in the Shamilat land.

7. After preparation of the new Misal Haqiat of Village Ladhyala for the year 2010-2011, Shamilat land of 2639 min was recorded in possession of the petitioner as a sharer to the extent of 24 Kanals 15 Marlas after recording separate Survey No. 300 new out of old Survey No. 2639 min. Other parcels of land out of 2639 min were recorded as new S. Nos. 299 (17 Kanals 4 Marlas), 391 (82 Kanals 12 Marlas), 399 (8 Marlas) and 407 (6 Marlas) to the extent of 368 Kanals and 15 Marlas.
8. It has been submitted that in the suit filed by the private respondents under Section 32 of the Land Revenue Act before the Collector, the impugned order dated 30.06.2017 came to be passed without affording an opportunity of being heard to the petitioner and without affording him an opportunity to file a written statement/documents in support of his claim, nor was he afforded an opportunity to produce evidence. Thus, according to the petitioner, the Collector, Udhampur, has made a fundamental error while passing the order against the petitioner, omitting his name from the revenue record. It has been contended that the Collector has exercised its jurisdiction contrary to law and in an arbitrary and mala fide manner. It has been submitted that the Collector has relied upon the report of the Tehsildar, Udhampur, against which the petitioner had filed objections, and without considering the said objections, the report of the Tehsildar has been relied upon by the Collector while passing order dated 30.06.2017, as a consequence whereof the name of the petitioner

recorded in the cultivation column was omitted in contravention of the Record of Rights for the year 2010-2011.

9. It has been submitted that even the appellate authority and revisional authority have not dealt with the contention of the petitioner that the Collector did not adhere to the procedure prescribed under the Land Revenue Act while passing order dated 30.06.2017.
10. The private respondents, in their reply to the writ petition, have submitted that the finding of the Collector is based on the record and physical possession on the spot. It has been contended that the contentions raised by the petitioner have been dealt with by the Divisional Commissioner, Jammu, as well as by the Financial Commissioner (R), Jammu, and that there is nothing illegal about the orders passed by the authorities below.
11. The official respondents have filed their reply to the writ petition, in which they have defended the orders passed by the authorities below. It has been submitted that the petitioner was given a proper opportunity of being heard in defending his case, which is evident from the record of the Collector.
12. I have heard learned counsel for the parties and perused the record. I have also perused the record of the Collector relating to Suit filed by the private respondents under Section 32 of the Land Revenue Act.
13. It appears from the record that the private respondents filed a suit under Section 32 of the Land Revenue Act before the Collector, Udhampur, seeking correction of the revenue record of rights after the settlement proceedings in respect of Khasra No. 300 (new) (old Khasra No. 2639) situated at Village Saley. In the said suit, it was

pleaded by the private respondents that they are owners in possession of the land under Khasra No. 2655, measuring 24 Kanals 15 Marlas, situated at Village Ladyala, and the said land is Shamilat Deh. It was also pleaded that, as per the old record, the land under Khasra No. 2639 (old) and Khasra No. 300 (new), situated in Village Salay, is falling on the other side of the nallah, which is about one kilometer away from Village Ladyala, where the land under Khasra No. 2655 is located. It was alleged that the whole record had been manipulated intentionally at the instance of the petitioner herein, thereby shifting the situation of the land under Khasra No. 2639 (old) and Khasra No. 300 (new) from Village Salay to Village Ladhyala in Khasra No. 2655 in the revenue papers. Thus, the private respondents sought a decree for correction of the revenue record regarding Khasra No. 2639 (old) and Khasra No. 300 (new), along with Titma Shajara, to the extent that land under Khasra No. 300 is not situated in Village Ladhyala under Khasra No. 2655, but the same is situated in Village Salay, which is on the other side of the nallah.

14.It appears that the petitioner put in an appearance before the Court of the Collector, Udhampur, through his counsel and, during the pendency of the suit, the Tehsildar, Udhampur, submitted his report before the Collector, who, on the basis of the said report, proceeded to pass order dated 30.06.2017, decreeing the suit of the private respondents and directing correction of the revenue record, including omission of the entry of the petitioner from new Khasra No. 300, which corresponds to old Khasra No. 2639. The record would show that even though the petitioner had appeared before the Collector, he

has not filed any written statement before the Collector. A perusal of the minutes of the proceedings would reveal that he had not been called upon to file a written statement by the Collector. The record further reveals that the petitioner had made an application before the Collector on 19.06.2017, praying therein that the proper procedure under the provisions of the Code of Civil Procedure be adopted while dealing with the case. It was stated in the application that neither any issue had been framed in the suit nor the statements of the parties have been recorded and that the petitioner had not been given an opportunity to lead evidence. Although, in the said application, the petitioner had stated that he had filed written statement and objections yet, the same are not available on the record, nor is there any interim order on the file that would go on to show that the petitioner had in fact filed any objections to the suit filed by the private respondents. The minutes of the proceedings further reveal that none of the parties, which include the petitioner, was given any opportunity of producing documents or leading evidence.

15. Learned counsels for the respondents have vehemently argued that the provisions of the Code of Civil Procedure are not strictly applicable to the proceedings in a suit filed before a Collector under Section 32 of the Land Revenue Act and only the principles of natural justice and the procedure prescribed under the Land Revenue Act and the rules framed thereunder are to be followed, which, in the instant case, have been followed by the Collector.

16. There is no quarrel with the proposition of law that all the provisions of the Code of Civil Procedure are not applicable to proceedings

before the Revenue Officers deciding matters under the Land Revenue Act. However, the provisions of the Land Revenue Act and the Rules framed thereunder constitute a complete code in themselves, and Revenue Officers, while dealing with cases before them, are to follow the procedure prescribed under the Land Revenue Act and the rules framed thereunder. A Collector, while exercising his jurisdiction under Section 32 of the Land Revenue Act, is acting as a quasi-judicial authority and is vested with power to decide valuable rights of the parties. Therefore, it is incumbent upon the Collector to adhere to the principles of natural justice, which would include allowing the parties to file documents in support of their respective claims, produce witnesses in support of their respective cases and also to file pleadings projecting their respective claims.

17.Section 15-A of the Land Revenue Act gives power to a Revenue Officer to summon persons and to record their statements. Rule 21 of the Land Revenue Rules provides for the procedure of the Revenue Officers. As per this provision, the statements and pleadings made by the parties have to be recorded in a concise narrative of the facts, and the written application or statement filed by the parties in the revenue proceedings has to be drawn up and verified in the manner provided by the Code of Civil Procedure for written statements in suits. Rule 26 of the Rules provides that in proceedings before a Revenue Officer, he shall make with his own hand a brief memorandum of the statements of the parties and the witnesses at the time when each statement is made, whereas Rule 27 provides that when an order is made by the Revenue Officer on the merits of an inquiry, he shall record a brief

statement of the reasons on which it is founded. From statutory framework it is clear that the rules of natural justice, including providing a proper opportunity to the parties to produce documents and evidence in respect of their respective claims, have to be read into the proceedings in a suit under Section 32 of the Land Revenue Act, as the determination of a suit under the said provision affects valuable rights to property of the parties.

18. This Court, in the case of **Ahali Manhassan v. Financial Commissioner and others, OWP No. 201/2007**, decided on **20.11.2008**, has, after analyzing the provisions contained in Sections 26 and 32 of the Land Revenue Act, held that a suit under Section 32 has to be decided after hearing the parties concerned and affording them the requisite opportunity to substantiate their respective claims regarding the entries on the basis of such material as they may opt to rely upon in support of their respective claims.

19. Turning to the facts of the present case, a perusal of the record of the Collector would show that the petitioner was never called upon to file his written statement and objections to the suit. He was not called upon to produce documents in support of his claim, nor was he called upon to lead evidence in support of his claim. In spite of the petitioner having made an application before the Collector, bringing to his notice that an opportunity to lead evidence may be afforded to him, no such opportunity was granted by the Collector to the petitioner. Instead of doing so, the Collector proceeded to rely upon the report of the Tehsildar, Udampur, against which the petitioner had filed his objections, alleging that the said report is mala fide and result of

corruption. The objections of the petitioner against the report of the Tehsildar were not dealt with by the Collector while passing the order dated 30.06.2017. Thus, the Collector, Udhampur, has violated both the provisions contained in the Land Revenue Act and the Rules framed thereunder, as also the principles of natural justice, and proceeded to decide the suit of the private respondents merely on the basis of the allegations made in the plaint and the report of the Tehsildar. Despite bringing this lacuna in the proceedings before the Collector to the notice of the appellate and revisional authorities, the petitioner's grievance was not adverted to by the said authorities, who proceeded to dismiss his Appeal and the Revision Petition without dealing with this aspect of the matter.

20.For the foregoing reasons the writ petition is **allowed**. The impugned order dated 30.06.2017 passed by the Deputy Commissioner (Collector), Udhampur, order dated 06.12.2017 passed by the Divisional Commissioner, Jammu and order dated 06.02.2019 passed by the Financial Commissioner (R), Jammu are set aside. The matter is remanded to the Collector, Udhampur for its fresh decision after affording the petitioner an opportunity of filing the reply to the suit filed by the private respondents and after providing an opportunity to the parties to produce evidence and documents in support of their respective claims. The suit shall be disposed of by the Collector as expeditiously as possible preferable within a period of six months from the date a copy of this order is made available to the said authority.

21.The record of the Collector be returned to Ms. Kohli, learned Sr.AAG
appearing on behalf of official respondents.

(Sanjay Dhar)
Judge

Jammu
18.09.2026
Madan Verma-Secy

Whether order is speaking? Yes
Whether order is reportable? Yes

