

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

WP (C) No. 1280/2023

Date of pronouncement: 04.06.2026

Uploaded on: 06.06.2026

1. Rani Kour Wd/o Late Sh. Lal Singh,
Age 85 Years
2. Lakshmi Kour Wd/o Late Sh.
Gurdeep Singh, Age 42 Years.
3. Balwant Singh S/o Late Sh. Lal
Singh, Age 65 years.
4. Sethi Singh, S/o Late Sh. Lal Singh,
Age 45 years.
5. Roop Singh S/o Late Lal Singh,
Age 39 years.
6. Amrik Singh, S/o Sh. Kaka,
Age 48 years
All residents of Main Bazar Katra
Town, Tehsil Katra, District Reasi.

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

Through:- Mr. Vaid Bhushan Gupta, Advocate
Mr. Rahul Aggarwal, Advocate
V/s

1. Union Territory of Jammu and
Kashmir through Financial
Commissioner (Rev) J&K at Jammu
with Powers of Commissioner
Agrarian Reforms J&K.
2. Deputy Commissioner, Reasi
3. Assistant Commissioner (Rev) with
powers of Collector Agrarian
Reforms Reasi/Katra.
4. Krishan Singh S/o Late Sh. Basant
Singh
5. Manohar Singh S/o Late Sh. Basant
Singh
(Respondent Nos. 4 & 5 both
residents of Main Bazar Katra,
Tehsil Katra, District Reasi).

.....Respondent(s)

Through:- Ms. Chetna Manhas, Assisting Counsel to
Mrs. Monika Kohli, Sr. AAG for R- 1 to 3
Mr. B.S. Bedi, Advocate for R- 4 & 5

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE
ORDER (ORAL)

1. By this petition, petitioners herein have challenged order dated 19.01.2023, passed by Respondent No. 1 in appeal titled "**Krishan Singh & Anr v/s Rani Kour and Others**" bearing File No. 710/FC-ARA/AP, whereby the appeal preferred by private respondents against the order dated 18.01.2022, passed by Respondent No. 3, has been accepted ex-parte, thereby setting aside the order (supra).

Factual Matrix:

2. The petitioners claim to be the owners of land measuring 02 Kanals, falling under Khasra No. 490/261, situated at Katra, District Reasi. The said land was under the tenancy of the forefathers of the petitioners much prior to Bikrami Samvat 1993-1994, which is also reflected in the jamabandis of Bikrami Samvat 1993-1994 and also that of Bikrami Samvat 1997-1998 i.e. 1940-1941 AD and other Revenue Record, even prior to years 1935-1936.
3. Learned counsel appearing for the petitioners stated that the private respondents with the connivance of revenue staff and some land dealers manipulated the revenue record and gave their attorney to one Rakesh S/o Jaswant Singh, R/o House No. 458, Nai Basti, Jammu, who filed an application on 24.07.2009 before the Respondent No. 2 under Section 10, Clause (2) Sub-Clause (ii) of Agrarian Reforms Act, 1976 for redeeming the land in question. The said respondent vide order dated 24.03.2011, after hearing the parties, referred the matter to Tehsildar Reasi to conduct thorough

inquiry and submit a report thereof, within a period of three months under Section 10 of Agrarian Reforms Act. in presence of parties. Subsequently, Tehsildar, Reasi, submitted his inquiry report dated 25.03.2013 to Respondent No. 3, wherein it is stated:

"i. That the applicants were given sufficient time for producing any such document or proof from which conditions of alleged Mortgage Deed can be elucidated from which it can reflect that infact some Mortgage Agreement or Deed existed. On 13.03.2013 even last opportunity to file such proof was granted to the applicants, but they failed to do so and except some distorted and disputed copies of Girdawri Entries could not produce any substantial and cogent document. Some entries in Girdawri which are contrary and controversial have been made without formal Mutation or Orders of any officer; but the same has been done by a Patwari; which is not permissible.

ii. That it is neither proper nor possible that only on the basis of such an illegal entry, the same can be treated as a Rehan and restitution of the same is ordered."

4. The matter was then transferred to Respondent No. 2, who while relying upon the enquiry report (supra), dismissed the application filed by the attorney holder of the private respondents vide order dated 04.12.2015. The said order was challenged by the private respondents before Respondent No. 1 by way of an appeal, which came to be allowed vide order dated 13.03.2019, thereby quashing the order dated 04.12.2015 and sent the matter back to Respondent No. 3 for disposal under law.
5. Some of the petitioners herein, by way of a writ petition bearing OWP No. 574/2019, challenged the order dated 13.03.2019 before this Court. During the pendency of that writ petition, it became

amply clear that in fact Respondent No. 2 was not competent to exercise jurisdiction under Agrarian Reforms Act and the Divisional Commissioner, Jammu had wrongly sent the matter to him for disposal. Therefore, the petitioners eventually made a submission before this Court to withdraw the writ petition (supra) on 02.07.2021. The writ petition bearing OWP No. 574/2019 came to be dismissed as withdrawn vide order dated 02.07.2021 by giving them liberty.

6. Respondent No. 3, who was ceased of the matter, vide order dated 18.02.2022, dismissed the application under Section 10, Clause (2) Sub-Clause (ii) of Agrarian Reforms Act, 1976, preferred by the attorney holder of the private respondents. Operative portion of the order (supra) is set out below:

"From the above mentioned facts, it is evident that the respondents (Respondents in application u/s to Agrarian Reforms Act) were in possession since the year 1925 i.e. almost 97 years; and they were in possession prior to the entry of Rehn Khangi made by the patwari in the year 1968 and even after from 1968 till date. The Agrarian Reforms Act came into force on 21st August 1976 and on that date the Mortgage was not subsisting. There is no conclusive evidence provided by petitioner with regard to Mortgage of the land, other than the entry made in Revenue Record by the concerned patwari. There is no mention of any amount of Mortgage, and period of Mortgage in the entry made by the patwari cannot be considered as valid proof of Mortgage of the land measuring 2 Kanals under Khasra No. 490/261 more so when the land adjoining these Khasra Nos. 489/261 land measuring 01 Kanal 06 Marlas and 480/261 land measuring 01 Kanal 12 Marlas is already in possession of non-applicants by virtue of alienation.

In view of the above, the claim of the petitioners u/s 10 of Agrarian Reforms Act cannot be considered as such the petition is rejected...."

7. The private respondents herein being aggrieved of the order dated 18.02.2022, passed by Respondent No. 3, preferred an appeal before the Respondent No. 1, on the ground fact that Financial Commissioner had no jurisdiction to hear the Appeals under Agrarian Reforms Act as the Government of J & K, in terms of SRO 512 of 2014 dated 25.11.2014, appointed all Additional Deputy Commissioners as Commissioners. For facility of reference, SRO (supra) is reproduced hereunder:

“SRO 512 of 2014 dated 25.11.2014, Revenue Department”.

In exercise of Powers conferred by Sub-Section (1) of Section 18 of the Agrarian Reforms Act 1976 (XVII) of 1976, read with Section 19 of said Act and in supersession of Notification SRO 102 of 2014 dated 02.04.2014, the Govt. hereby appoint all Additional Deputy Commissioners, within their respective jurisdiction for purposes of hearing appeals under the said Act."

8. However, the Respondent No. 1 after entertaining the appeal preferred by the private respondents, issued summons for the service of petitioners herein. On 13.10.2022, when the matter was listed before Respondent No. 1, an application for withdrawal of the appeal came to be preferred by the private respondents. However, vide order dated 19.01.2023, the appeal preferred by the private respondents against the order dated 18.02.2022 has been accepted and the order impugned therein has been set aside. It is this order, which is challenged before this Court, by way of this petition.
9. Mr. V B Gupta, learned counsel appearing on behalf of the petitioners has challenged the order impugned, primarily, on the

ground that, Respondent No. 1 is Commissioner Agrarian Reforms only for Jammu District, whereas in all other Districts of the J&K, Additional Deputy Commissioners have been designated and empowered as Commissioners Agrarian Reforms for hearing Appeals. District Reasi is an independent and separate District, having its separate Deputy Commissioner and Additional Deputy Commissioner with powers of Commissioner Agrarian Reforms, as such, the impugned order has been passed without jurisdiction, having been passed by the incompetent authority.

10. It is further stated by learned counsel for the petitioners that on 13.10.2022, the matter was listed for the first time before the Respondent No. 1, when notices were issued to the petitioners for their appearance. The summons were issued on 18.10.2022 and the matter was listed for 03.11.2022. On the said date, the presiding officer was out of station and the reader eventually recorded the personal presence of Petitioners 3 & 4 herein and ordered the matter to be listed on 07.12.2022, on which date, presiding officer was not available and the matter was again directed to be listed for 22.12.2022, during which period, the private respondents preferred an application for withdrawal of the appeal with liberty to file the same, which was also conveyed to the petitioners by the concerned clerk. However, when the matter came up on 22.12.2022, as is evident from the record, the private respondents verbally stated before Respondent No. 1 that they do not want to pursue their

withdrawal application. As such, on 26.12.2022, just after three days, the petitioners were set ex-parte and the order was announced on 19.01.2023, which is not sustainable in the eyes of law.

11. *Per Contra*, reply stands filed by the private respondents, wherein it is stated that the Respondent No. 1 after carefully examining the legal aspects of the matter and record annexed with the appeal and submissions made by the respondents, had passed a well-reasoned order.
12. It is further stated that the petitioners herein had deliberately chosen not to appear before Respondent No. 1. It is further stated so far as the jurisdiction of Financial Commissioner with Powers of Commissioner Agrarian Reforms J&K, is concerned Section 18 of Agrarian Reforms Act mandate that Financial Commissioner (with Powers of Commissioner Agrarian Reforms) J&K UT had powers of Superintendence and control over all the revenue officers appointed under the Act and had powers to hear appeal throughout UT of J&K. As such, respondent No. 1 had the jurisdiction to entertain and decide the appeal.
13. Heard learned counsel for the parties and perused the material on record. Perusal of the record reveals that neither the petitioners herein were properly served nor they were informed that instead of withdrawal of the appeal the respondents herein wanted to pursue the matter. Moreover, the petitioners herein could not plead before respondent No. 1 with respect to the jurisdiction of the Financial

Commissioner, in terms of SRO 512 of 2014 dated 25.11.2014, which as per the petitioners is vested only with Additional Deputy Commissioner, Reasi and not with the Financial Commissioner, Jammu.

14. In view of the above and with the consent of learned counsel for the parties, ***the instant petition is disposed of***, by setting aside the impugned order dated 19.01.2023, remitting the appeal to Respondent No. 1 thereby directing him to hear the parties afresh, mainly on the ground of the jurisdiction, in terms of SRO 512 of 2014 dated 25.11.2014 at the first instance and then to decide the appeal accordingly.



(MOKSHA KHAJURIA KAZMI)
JUDGE

JAMMU
04.06.2026
Asif Tantray

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