

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

*Pronounced on 18.08.2026
Uploaded on 27.08.2026.*

WP(C) No. 1623/2020

Tirath Ram

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

Through :- Mr. O. P. Thakur, Sr. Advocate
with
Ms. Neha Abrol, Advocate.

v/s

J&K Special Tribunal Jammu and
Ors.

.....Respondent(s)

Through :- Ms. Nisha Kangotra, Advocate vice
Mrs. Monika Kohli, Sr. AAG
Mr. Vikram Sharma, Sr. Advocate
with
Mr. Sachin Dev Singh, Advocate &
Mr. Rameez Khan, Advocate.

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

ORDER
18.08.2026

01. The petitioner, by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, has called in question Mutation Nos. 2819 and 2842 dated 09.08.1990, attested by the Tehsildar, Jammu, in respect of land measuring 15 Kanals and 08 Marlas, comprising Khasra No. 14 (3 Kanals 19 Marlas), Khasra No. 14 Min (5 Kanals 18 Marlas) and Khasra No. 60 Min (5 Kanals 11 Marlas), situated at Toph Sherkhania, Hazuri Bagh, Bohri, Tehsil and District Jammu.

2. The petitioner also seeks quashing, by issuance of a writ of certiorari, of the order dated 22.12.2012 passed by the Joint Agrarian Reforms Commissioner, Jammu, as also the judgment dated 31.12.2014 passed by the J&K Special

Tribunal, Jammu, whereby the mutations in question came to be upheld. A consequential writ of mandamus directing the official respondents to reconsider and pass fresh orders in respect of the aforesaid mutations has also been sought.

3. The controversy has its genesis in a dispute amongst three brothers, namely, the petitioner, late Prem Chand, predecessor-in-interest of respondent Nos. 3/4 to 8, and respondent No. 12. The dispute pertained to mutations recorded under Sections 4 and 8 of the Agrarian Reforms Act in favour of late Prem Chand on the basis of his cultivating possession during Kharif 1971. The case set up by the petitioner is that the father of the three brothers had died prior to 1971 and that the brothers constituted a joint family. Consequently, according to the petitioner, cultivation by one brother ought to have been treated as cultivation on behalf of all three brothers, thereby entitling each of them to an equal share in the land.

4. The record, however, reveals that the dispute amongst the parties was taken before the Civil Court in a suit titled “Prem Chand v. Tirath Ram & Ors.” The parties entered into a compromise, pursuant where to a compromise decree was passed on 07.05.1988, followed by a final decree dated 10.06. 1988. On the strength of the said decree and settlement, Mutation Nos. 2819, 2842 and 3391 came to be attested by the Tehsildar, Jammu, in August 1990. The mutations were subsequently upheld by the Joint Agrarian Reforms Commissioner, Jammu, vide order dated 22.12.2012, and the said order was affirmed by the J&K Special Tribunal, Jammu, vide judgment dated 31.12. 2014. Significantly, the compromise decree dated 10.06.1988 has admittedly never been challenged by the petitioner or otherwise set aside by any competent Court.

5. The record further indicates that, subsequent to the compromise decree, late Prem Chand instituted another suit in the year 1995 seeking injunction against Tirath Kumar and Shanti Devi, mother of the parties, in respect of his claimed share in Khasra Nos. 14 and 14 Min. The said suit is stated to have been decreed ex parte by the Court of Munsiff, Jammu, vide judgment dated 28.03.1995.

6. The principal contention of the petitioner is that the compromise decree was a nullity in the eyes of law, as the Civil Court could not have determined rights in respect of land which was the subject matter of proceedings under the Agrarian Reforms Act. It is accordingly urged that the mutations subsequently attested on the basis of such decree are equally unsustainable. The petitioner asserts that each of the three brothers was entitled to a 1/3rd share in the total land measuring 15 Kanals and 08 Marlas and that the mutations in question, insofar as they recognise rights contrary thereto, are liable to be set aside.

7. The petitioner has further relied upon proceedings in OWP No. 94/2015, earlier instituted by respondent No. 12. According to the petitioner, although he was arrayed as a respondent therein, the proceedings were being pursued with his consent and support. He alleges that respondent No. 12 subsequently withdrew the writ petition without his knowledge. It is also alleged that respondent Nos. 3 to 8 entered into an arrangement with respondent No. 12 whereby an amount of approximately ₹48 lakhs was paid to respondent No. 12 in lieu of his share. According to the petitioner, such arrangement constitutes an admission that the three brothers had equal rights in the property. The petitioner further pleads that, being in the Army, he could not independently and effectively pursue the litigation earlier and had, therefore, supported respondent

No. 12. It was only after his retirement that he started pursuing the matter independently and allegedly discovered collusion between respondent Nos. 3 to 8 and respondent No. 12 intended to deprive him of his lawful share.

08. The respondents have resisted the petition primarily on the ground that the rights of the parties had already been conclusively settled by the compromise decree dated 10.06.1988, to which the petitioner was himself a party. According to the respondents, the petitioner has selectively questioned the consequential mutations while deliberately avoiding a challenge to the foundational compromise decree. The decree having attained finality, it is contended that the petitioner cannot indirectly reopen the settlement by invoking the extraordinary writ jurisdiction of this Court.

09. The respondents further submit that, under the compromise, out of 5 Kanals and 10 Marlas, late Prem Chand agreed to give 2 Kanals and 10 Marlas to the petitioner, 2 Kanals to respondent No. 12 and 1 Kanal to their mother, Shanti Devi. The settlement was acted upon, possession was delivered accordingly and the mutations were subsequently attested in implementation thereof. It is further contended that Mutation No. 8643 dated 29.11.2003, pertaining to inheritance in favour of respondent Nos. 3 to 8, has no direct bearing upon the validity of the mutations presently under challenge.

10. Having considered the pleadings and the material placed on record, the central question that arises for determination is whether the petitioner can, in exercise of writ jurisdiction, challenge the mutations and the orders passed by the revenue authorities without first successfully assailing the compromise decree which constitutes the foundation of the subsequent arrangement between

the parties. There is no dispute that the petitioner was a party to the civil proceedings culminating in the compromise decree dated 10.06.1988. Equally undisputed is the fact that the said decree has neither been set aside nor modified by any competent Court and continues to hold the field. A party to a compromise decree cannot ordinarily accept the decree for decades and thereafter seek to avoid its consequences by challenging only the consequential revenue entries. So long as the foundational decree subsists, the consequential actions taken in implementation thereof cannot ordinarily be invalidated merely by questioning them independently of the decree.

11. The contention that the compromise decree was inherently without jurisdiction and, therefore, a nullity does not, in the facts and circumstances of the present case, persuade this Court to exercise its extraordinary writ jurisdiction in favour of the petitioner. A mere assertion that a decree is void or without jurisdiction does not, by itself, efface a decree which continues to subsist and has never been set aside, recalled or otherwise annulled in proceedings known to law. So long as such decree remains operative, its legal consequences cannot be ignored merely on the basis of a collateral challenge raised at a considerably belated stage. Of significance is the fact that the petitioner was himself a party to the compromise pursuant to which the decree came to be passed. The settlement is also stated to have been acted upon by the parties. The consequential mutations effected on its basis remained in operation for a substantial period and were thereafter subjected to scrutiny before the competent revenue authorities. These circumstances assume particular importance while considering whether discretionary relief under Article 226 of the Constitution ought to be granted at this distance of time.

12. In *Triloki Nath Singh v. Anirudh Singh (D) through LRs.* (2020) 6 SCC 629, the Supreme Court, while examining the statutory scheme governing challenges to compromise decrees, emphasised the finality attaching to settlements recorded by courts and the bar created by Order XXIII Rule 3A CPC against a separate suit questioning a decree on the ground that the underlying compromise was unlawful. The Court observed that the object of the 1976 amendment was to avoid multiplicity of proceedings and to ensure that disputes concerning the validity of a compromise are raised in the manner contemplated by Order XXIII Rule 3 CPC. It further recognised finality of adjudication as an underlying principle governing judicial proceedings. The principle assumes still greater relevance in the present case, where the petitioner was not a stranger to the compromise but a party thereto. Having participated in the settlement and allowed the decree, as well as the consequential revenue entries, to operate for a considerable period, the petitioner cannot ordinarily circumvent the remedies prescribed by law by seeking, in collateral writ proceedings, to have the decree treated as non-existent.

13. The further contention that, since the parties constituted a joint family, cultivation by one brother during Kharif 1971 must necessarily be treated as cultivation on behalf of all three brothers is equally incapable of determination in the present writ proceedings. The plea rests upon factual assumptions concerning the nature of possession, cultivation and the inter se arrangement between the parties and, therefore, raises disputed questions of fact requiring evidence. Such issues cannot appropriately be reopened in exercise of writ jurisdiction, particularly when the rights of the parties had earlier been dealt with under a compromise decree and consequential revenue proceedings which

were allowed to attain finality. The petitioner's plea that he was unable to pursue the matter independently because he was serving in the Army does not materially alter the position. While such circumstance may explain his physical absence for certain periods, it does not satisfactorily account for the failure to question the compromise decree itself through an appropriate remedy. The petitioner was admittedly aware of the dispute and, more importantly, was a party to the proceedings culminating in the compromise. In as much as was all along defending the mutations before authorities below.

14. His subsequent retirement from service cannot revive a challenge to a settlement which had already been entered into, acted upon and followed by consequential proceedings. Nor can retirement, by itself, furnish a legal ground for unsettling rights which have remained crystallised for a considerable period under proceedings that have attained finality. To permit such a challenge in writ jurisdiction at this stage would amount to reopening concluded matters on disputed questions of fact and would defeat the salutary principle of finality attaching to judicial and quasi-judicial proceedings. Accordingly, neither the plea that the compromise decree was a nullity nor the assertion founded upon joint-family cultivation furnishes, in the peculiar facts of the case, sufficient ground for this Court to exercise its extraordinary and discretionary jurisdiction under Article 226 of the Constitution.

15. Likewise, the alleged payment of approximately ₹48 lakhs by respondent Nos. 3 to 8 to respondent No. 12 cannot, by itself, invalidate the earlier compromise decree or the mutations attested pursuant thereto. Any subsequent arrangement between some of the parties must be examined on its own terms

and cannot automatically be treated as an admission sufficient to extinguish or vary rights flowing from an existing decree. The petitioner has also referred to the inheritance mutation bearing No. 8643 dated 29.11.2003 and the revision petition allegedly pending before the Financial Commissioner. The legality or otherwise of that mutation must necessarily be determined in the proceedings in which it has been specifically challenged. The pendency of such proceedings does not furnish sufficient ground to invalidate Mutation Nos. 2819 and 2842 or the orders presently impugned. Unless the foundational decree is displaced in accordance with law, this Court finds no sufficient ground to interfere with the consequential revenue orders merely on the basis of the pleas urged in the present petition.

16. For the reasons recorded hereinabove, this Court finds no illegality, perversity or jurisdictional error in the order dated 22.12.2012 passed by the Joint Agrarian Reforms Commissioner, Jammu, or in the judgment dated 31.12.2014 passed by the J&K Special Tribunal, Jammu, warranting interference in exercise of jurisdiction under Article 226 of the Constitution of India. Accordingly, the writ petition is *dismissed*, along with all connected application(s), if any. The interim direction(s), if any, shall stand vacated. It is, however, clarified that this judgment shall not prejudice the adjudication of any independent proceedings concerning any other mutations, stated to be pending before the competent authority, which shall be decided on its own merits and in accordance with law.

(Sanjay Parihar)
Judge

Jammu
18.08.2026
Javid Iqbal.