

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(Crl) No. 36/2025

Gurdas Chand and Anr.

.... Petitioner(s)

Through:- Mr. Pawan Kumar Kundal, Sr.
Advocate with
Mr. Avnish Kumar, Advocate.

V/s

UT of J&K and Ors.

.....Respondent(s)

Through:- Ms. Monika Kohli, Sr. Advocate with
Ms. Sagira Jaffer, Advocate.
Mr. Supreet Singh Johal, Advocate.
Mr. M. K. Sharma, Caveator.

CORAM : HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
21.07.2026

1. The petitioners have filed this petition for grant of following reliefs:
"I. to seek to respondent No. 10 for the registration of FIR and expose the nexus between the Land Mafia respondent No. 9 and his goons, Revenue Authorities for tempering the revenue record of land measuring 5 Kanals and 12 marla falling under Khasra No. 456(new)/1668 (old) against the rules in favour of the respondent No. 9.
II. Seeking direction to respondent No. 10 to expose the nexus of land mafia respondent No. 9 and police, the way respondent No. 6 and 7 harassed the petitioners and family members and by registration of two false FIRs against the petitioners and tried to forcibly put the respondent No. 9 in possession of the aforesaid land since June, 2023 till date by use of Police force with Goons of respondent No. 9 when allotment of his father Harnam Singh was cancelled in 1956.

III. To investigate the role of the respondent No. 4 to 9 for forging the Revenue record, preparing false Police case and reports in favour of respondent No. 9 and respondent No. 6 and 7 with misuse of police power giving protection to respondent No. 9 and his goons to dispossess the petitioners from the aforesaid land in question and then by deputing police allowing and protecting the respondent No. 9 and his goons to raise boundary wall to show his possession and then filed false reports in favour of the respondent No. 9 to get favourable orders in civil cases and did not take action against the criminals despite more than 50 complaints filed by the petitioners against the respondent No. 9 and his goons and get the matter investigated from an independent agency like respondent No. 10 in the interest of justice, equality and fair play.”

2. The relief sought by the petitioners is for commanding the respondent No. 10 for registration of FIR and expose the nexus between the land mafia ie. Respondent No. 1 and his goons, revenue authorities for tempering the revenue record of land measuring 5 Kanals and 12 marlas falling under Khasra No. 456(new)/1668 (old) against the rules in favour of respondent No. 9 and for further commanding respondent No. 10 to expose the nexus of land mafia respondent No. 9 and police, the way respondent No. 6 and 7 have harassed the petitioners and their family members by registration of false FIRs against the petitioners and tried to forcibly put respondent No. 9 in possession of the aforesaid land since June, 2023.

2. Pursuant to the specific query made by this Court as to whether the petitioners have approached the CBI for registration of FIR, Mr. Pawan Kundal, learned senior counsel submits that the CBI cannot register FIR without the concurrence of the State/UT Government.

3. The contention raised by Mr. Kundal, learned Senior counsel is misconceived in view of the judgment of the co-ordinate Bench of this Court rendered in case titled “*Kumar Avinav v. U.O.I. and Ors.*” bearing CRMC No. 29/2016 decided on 02.02.2023.

4. The petitioners are in fact seeking issuance of writ of Mandamus commanding the respondent No. 10 to register FIR but as already mentioned above that the petitioners have not approached the CBI regarding their grievances and it is a settled law that the petitioners who applies for issuance of a writ of Mandamus should first of all call upon the authority concerned to discharge their legal obligation and when the concerned authority refuses to discharge its legal obligation, then only the writ of Mandamus can be issued against the said authority. In this context, it would be appropriate to take note of the observation made by the Hon’ble Supreme Court of India in “*State of Haryana v. Chanan Mal*, (1977) 1 SCC340”. In this judgment, it has been held as under:-

“49 (3). Any petitioner who applies for a writ or order in the nature of a mandamus should, in compliance with a well known rule of practice, ordinarily, first call upon the authority concerned to discharge its legal obligation and show that it has refused or neglected to carry it out within a reasonable time before applying to a court for such an order even where the alleged obligation is established.”

5. Be that as it may, the present petition is **disposed of** with liberty to the petitioners to approach the CBI for redressal of their grievances.

(Rajnish Oswal)
Judge

JAMMU
21.07.2026
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