

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

Reserved on: 28.07.2026
Pronounced on: 07.08.2026
Uploaded on: 07.08.2026

Whether the operative part or full
Judgment is pronounced: **Full**

WP(C) No. 1773/2023(O&M)

Jagjit Singh and others

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

Through: Ms. Divya Ojesvi, Advocate

vs

U. T. of J&K and others

..... Respondent(s)

Through: Ms. Sagira Jaffer, Adv. vice
Ms. Monika Kohli, Sr. AAG for Nos. 1 to 3
Mr. Rakesh Chargetra, Sr. Adv. with
Mr. Abhishek Verma, Adv. for Nos. 4 to 9

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

JUDGMENT

1. The petitioners have filed the instant petition for quashing the order dated 02.05.2023 passed by the Financial Commissioner (Revenue)/ Commissioner Agrarian Reforms, Act, J&K, respondent No. 2 herein, whereby the appeal preferred by respondent Nos. 4 to 9 was allowed by setting aside the order dated 02.05.2018 passed by the Collector, Agrarian Reforms, Kathua, respondent No. 3 herein, and the matter was remitted to respondent No. 3 for a fresh enquiry. The petitioners have also sought a direction restraining private respondent Nos. 4 to 9 from interfering with or changing the nature and complexion of the land comprising khasra No. 223

min, measuring 24 kanals, situated at Village Pamwal, Tehsil Nagri Parole, District Kathua.

2. It is stated that Vakil Singh, the predecessor-in-interest of the petitioners, being a displaced person of 1947, was allotted State land measuring 24 kanals comprising khasra No. 223 min, situated at Village Pamwal, Tehsil Nagri Parole, District Kathua, in terms of Government Order No. 578-C of 1954. He was enrolled in the Defence Forces of the Indian Union on 23.05.1953 and continued to serve therein until his discharge on 31.05.1976. It is further stated that since Vakil Singh, predecessor-in-interest of the petitioners, was serving in the Army, he was not able to cultivate the said land himself, so the said land was kept under tenancy by him. It is also stated that Cabinet Order No. 578-C of 1954 dated 07.05.1954 exempted an allottee from the requirement of personal cultivation where the allottee was employed in the Defence Forces of the Union of India or the State Militia.
3. Thereafter, in terms of Government Order No. 254 of 1965 dated 17.07.1965, Mutation No. 50 was attested on 08.08.1996, whereby proprietary rights in respect of the allotted land were conferred upon Vakil Singh.
4. It is stated that an application for eviction of the private respondents was filed before the Collector, Agrarian Reforms, Kathua under Section 27 of the J&K Agrarian Reforms Act, 1976 (for short 'the Act'), which as per the petitioners, ought to have been filed under Section 19 (3)(e) of the Act, and the same was allowed in terms of order dated 02.05.2018 by respondent No. 3, whereby the Tehsildar, Nagri Parole was directed to put the

applicants/petitioners herein in physical possession of the suit land measuring 24 kanals comprising khasra No. 223 min of Village Pamwal, Tehsil Nagri Parole, and he was also directed to make necessary correction in the khasra girdawari pertaining to the said land.

5. Aggrieved by the order dated 02.05.2018 passed by respondent No. 3, the private respondents preferred an appeal before respondent No. 2, who in terms of order dated 02.05.2023, set aside order dated 02.05.2018 passed by the Collector Agrarian Reforms Act, Kathua, respondent No. 3 herein, and remitted the matter to respondent No. 3 with an observation to determine the aspect of trespassing in terms of Section 19(3)(e) of the Agrarian Reforms Act, 1976 as per the observations made in the order and also look into the issue whether the requirements of Government Order No. 254-C of 1965 had been complied with at the time of attestation of Mutation No. 50 and to pass appropriate orders accordingly.
6. In the present petition, the petitioners have assailed order dated 02.05.2023 on the grounds that the same has been passed in utter disregard of the settled position of law. It is contended that the case of the petitioners is similar in nature to, and is squarely covered by, the judgment in case titled, **District Sharnarathi Action Committee v Union of India and others, 2003 (Supp.) JKJ 575[HC(DB)]**. It is further urged that respondent No. 2 could not have remitted the matter to respondent No. 3 for determining the issue of trespass in terms of Section 19(3)(e) of the Agrarian Reforms Act, 1976, inasmuch as, the said provision had already been omitted by virtue of amendment made by SO 3808(E) of 2020 dated 26.10.2020.

7. The private/contesting respondents have filed their reply, wherein it has been stated that the predecessors-in-interest of the respondents, namely, Milkhi, Parkash and Puran Chand, had started cultivating the said land somewhere in the early 1960s. Thereafter, the aforesaid land was allotted to Vakil Singh, displaced person of 1947 by the Government, who had not taken the physical possession of the same from the predecessor-in-interest of the respondents, though he got Mutation attested in his favour under Government Order No. 254-C of 1965 on the strength of his status as the allottee of the land and as a displaced person of 1947.
8. It is further averred that on the strength of Government Order No. 254-C and his allotment order, the said Vakil Singh started blackmailing the predecessor-in-interest of the private respondents and claim rent, which was accordingly paid to him from time to time without any default. It is further stated that after the commencement of Agrarian Reforms Act, the mutation under Section 4 of the Agrarian Reforms Act was attested, whereby the ownership of Vakil Singh was extinguished and the land was escheated to State, and the predecessors-in-interest of the respondents namely, Milkhi, Parkash and Puran Chand were declared as prospective owners, but the predecessor-in-interest of the petitioners assailed the same before the Commissioner Agrarian Reforms Act, Jammu, and the mutations were set aside by respondent No. 2. However, their status was not disturbed, and they continued to remain in possession and enjoyment of the land. It is stated that as the mutation under Section 4 had already been set aside in the application filed by the predecessor-in-interest of the petitioners on the ground that the provisions of Agrarian Reforms Act are not applicable,

therefore, the predecessor-in-interest of the petitioners, Vakil Singh could not have maintained the application under Section 27 of the Act for evicting the respondents from the land in question. It is also the contention of the private respondents that the application for eviction of the petitioners from the land in question was not maintainable and liable to be rejected in view of Section 3 of the Agrarian Reforms Act; the provisions of Agrarian Reforms Act do not apply to the land mentioned in Schedule-II of the Act except sections 26, 38 and 39 of the Agrarian Reforms Act.

9. Heard learned counsel for both the sides and perused the record.
10. A perusal of the impugned order dated 02.05.2023 reveals that respondent No. 2 set aside the order dated 02.05.2018 passed by respondent No. 3 on the ground that no order of eviction could be passed under Section 27 of the Jammu and Kashmir Agrarian Reforms Act, 1976 unless the person in possession of the land was first declared to be a trespasser upon an application filed under Section 19(3)(d) of the Act. Further, by virtue of the impugned order, respondent No. 2 remitted the matter to respondent No. 3 with a direction to determine the issue of trespass in terms of Section 19(3)(d) of the Jammu and Kashmir Agrarian Reforms Act, 1976, in the light of the observations made therein. Respondent No. 2 also directed respondent No. 3 to examine whether the requirements of Government Order No. 254-C of 1965 had been complied with while attesting Mutation No. 50 and to pass orders accordingly.
11. Learned Senior Counsel representing the private respondents has rightly stated that the provisions of Agrarian Reforms Act are not applicable to the lands specified in Schedule-II of the Agrarian Reforms Act. A perusal of

Schedule-II of the Agrarian Reforms Act, 1976 reveals that it bears reference to the land allotted in terms of Government Order No. 578/C of 1954 among others including the Government Order No. 254/C of 1965.

12. It is an admitted position that the predecessor-in-interest of the petitioners was allotted the land measuring 24 kanals comprising khasra No. 223 min, situated at village Pamwal, Tehsil Nagri Parole, District Kathua in terms of Government Order No. 578/C of 1954. Subsequently, ownership rights in respect of the said land were conferred upon him in terms of Government Order No. 254/C of 1965. Once it is admitted that the predecessor-in-interest of the petitioners was an allottee under the aforesaid Government Orders, the provisions of the Jammu and Kashmir Agrarian Reforms Act, 1976 were not applicable to the land in question. The application initially filed by the petitioners before respondent No. 3 under the provisions of the Act was itself not maintainable. That being so, respondent No. 2 also could not have remitted the matter to respondent No. 3 for determining the issue of trespass in terms of Section 19(3)(d) of the Act. Further the Mutation bearing No. 50 attested in terms of Government Order No. 254/C of 1965 was not the subject matter of the appeal preferred by the private respondents before respondent No. 2, as such, respondent No. 2 could not have directed respondent No. 3 to look into the issue whether the requirements of Government Order No. 254-C of 1965 have been met with while attesting the Mutation No. 50.
13. Thus, it is evident that respondent No. 2 has rightly set aside the order dated 02.05.2018 passed by respondent No. 3, but on wrong grounds. Consequently, the impugned order dated 02.05.2023 is modified to the

extent that the directions issued therein to respondent No. 3, as noticed hereinabove, shall stand deleted. The writ petition is, accordingly, disposed of, with liberty to the contesting parties to avail such other remedy as may be available to them in law for redressal of their grievances.

(RAJNESH OSWAL)
JUDGE

Jammu
07.08.2026
Rakesh PS

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

