

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 2150/2026

1. Raj Kumar, Age 42Yrs.
S/O Sh. Som Raj
R/O Village Nallah Kohlana
(Badola),
Tehsil & District Udhampur. J&K
2. Yash Pal, Age 40 Yrs.
S/O Sh. Som Raj
R/O Village Nallah Kohlana
(Badola),
Tehsil & District Udhampur. J&K
3. Dinesh Kumar, Age 36 Yrs.
S/O Sh. Som Raj
R/O Village Nallah Kohlana
(Badola),
Tehsil & District Udhampur. J&K
4. Rajesh Kumar, Age 34 Yrs.
S/O Sh. Som Raj
R/o Village Nallah Kohlana
(Badola),
Tehsil & District Udhampur. J&K

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

Through: Ms. Garima Gupta, Advocate

Vs

1. Sat Pal
S/O Mast Ram
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.
2. Darshana Devi
W/O Lt. Mohan Lal
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.
3. Atul Kumar
S/O Lt. Mohan Lal
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.
4. Shikha Devi

D/O Lt. Mohan Lal
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.

5. Rattan Lal
S/O Mast Ram
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.

6. Naresh Kumar
S/O Mast Ram
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur

7. Sudesh Kumar
S/O Hans Raj
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.

..... Respondent(s)

8. Sudesh Kumar
S/O Bansi Lal
R/O Village Nallah Kohlana (Badola),
Tehsil & District Udhampur.

9. Assistant Commissioner Revenue
Udhampur

Through:

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

ORDER

17.07.2026

1. After hearing learned counsel for the petitioners at some length and perusing the record, it emerges that a suit for decree of perpetual prohibitory injunction was instituted by one Mangu (now deceased) on 16.04.2007 in respect of land comprising Khasra No. 605, measuring 03 kanals and 18 marlas, situated at Village Nalla Kohlana, Tehsil Udhampur. The suit was subsequently transferred to the Court of the Munsiff (District Mobile Magistrate, Traffic), Udhampur. By order dated 06.07.2009, passed in the presence of the parties, the said Court held that

the dispute pertained to possession of land falling within the ambit of the Jammu and Kashmir Agrarian Reforms Act, 1976 and that the question of possession was required to be adjudicated exclusively under the provisions of the said Act. Consequently, the suit was transferred to the Court of the Collector, Agrarian Reforms (Assistant Commissioner Revenue), Udhampur, where it was registered on 06.07.2009.

2. The Assistant Commissioner Revenue (Collector), Udhampur, by order dated 31.03.2026, held that in view of the legislative changes introduced in the Jammu and Kashmir Agrarian Reforms Act, 1976 by S.O. 3808(E) dated 26.10.2020, whereby Section 19(3)(e) of the Act stood omitted, the jurisdictional framework governing disputes relating to agricultural land had undergone a material change. The Revenue Court accordingly concluded that it no longer possessed jurisdiction to adjudicate the matter. Consequently, it directed that the file be returned to the plaintiff with liberty to seek an appropriate remedy in accordance with law, either by filing a properly constituted revenue petition before the competent authority or by approaching the Civil Court of competent jurisdiction.
3. Assailing the aforesaid order, learned counsel for the petitioners submitted that after nearly nineteen years of litigation, during which the matter had substantially progressed, the Revenue Court could not have returned the plaint in the manner directed. It was contended that even if the Revenue Court had rightly concluded that it lacked jurisdiction, the proper course was not to return the plaint to the plaintiff but to transmit the entire record back to the Civil Court from which it had originally

been received pursuant to the order dated 06.07.2009. It was further argued that the matter had reached an advanced stage, with pleadings having been completed and evidence already recorded, and that the return of the plaint at such a stage was legally unsustainable and liable to prejudice the rights of the parties.

4. Learned counsel further submitted that, upon declining jurisdiction, the Revenue Court ought to have remitted the matter to the Civil Court from which it had been transferred or, in the alternative, transmitted the record to the learned District Judge having territorial jurisdiction for assignment to the competent Civil Court, thereby enabling the proceedings already undertaken to be preserved and the suit to be decided on merits in accordance with law.
5. Heard learned counsel for the petitioners.
6. The revenue court below has failed to appreciate that in terms of **S.O. 3808(E) dated 26.10.2020**, namely the *Union Territory of Jammu and Kashmir Reorganisation (Adaptation of State Laws) Fifth Order, 2020*, it has been expressly provided that the repeal or amendment of any law specified in the Schedule thereto shall not affect any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment accrued under such law, and that every such investigation, legal proceeding or remedy shall continue as if the Reorganisation Act, 2019 and the said Order had not been enacted. Consequently, the omission of Section 19(3)(e) of the Jammu and Kashmir Agrarian Reforms Act, 1976, by way of amendment, did

not divest the Revenue Court of its jurisdiction to proceed with and conclude the pending proceedings, which stood expressly protected by the saving clause contained in the aforesaid S.O.

7. Even assuming, *arguendo*, that the omission of Section 19(3)(e) resulted in the Revenue Court being divested of jurisdiction, the Id. Assistant Collector, having received the suit record upon transfer from the Court of District Mobile Magistrate (Traffic), Udhampur, where the suit had originally been instituted before a Court of competent jurisdiction, was legally bound to remit the record to the very Court from which it had been received, instead of resorting to the provisions of Order VII Rule 10 of the Code of Civil Procedure. It is a settled proposition of law that every statute is presumed to operate prospectively unless a contrary intention is expressly or by necessary implication manifested. The same principle applies with equal force to repealing or amending enactments, particularly where vested rights have accrued. Reliance in this regard is placed upon the judgments of the Hon'ble Supreme Court in *Keshavan Madhava Menon v. State of Bombay*, AIR 1951 SC 128, and *Commissioner of Income Tax (Central-I), New Delhi v. Vatika Township Pvt. Ltd.*, decided on 15.09.2014.
8. The suit was admittedly instituted before a Court possessing competent jurisdiction to entertain and adjudicate the same. Subsequently, upon the Civil Court arriving at a conclusion that the subject matter of the dispute pertained to land governed by the provisions of the Jammu and Kashmir Agrarian Reforms Act, 1976, the matter was transferred to the Revenue

Court, which, at the relevant point of time, was fully empowered under the prevailing statutory framework to adjudicate the dispute. The Revenue Court thereafter lawfully assumed jurisdiction and proceeded with the trial until the subsequent legislative amendment omitting Section 19(3)(e) of the Agrarian Reforms Act.

9. Assistant Collector has gravely erred in invoking Order VII Rule 10 CPC. The said provision contemplates return of a plaint where the Court in which it is instituted lacks jurisdiction to entertain the suit. It has no application to a case where the plaint was originally presented before a competent Civil Court and was thereafter transferred, in accordance with law, to another forum which was equally vested with jurisdiction at the relevant time. The subsequent legislative withdrawal of jurisdiction from the transferee forum does not ipso facto attract Order VII Rule 10 CPC. In such circumstances, the only lawful and proper course available was to transmit the entire record back to the Civil Court from which it had been received, so that the proceedings could continue from the stage already reached, instead of compelling the plaintiff to present the plaint afresh. the impugned order directing return of the plaint causes manifest injustice and grave prejudice to the petitioners. The proceedings have remained pending for nearly seventeen years before the Revenue Court; pleadings stand completed and the trial has substantially progressed.
10. By directing return of the plaint and relegating the petitioners to institute fresh proceedings or to seek an appropriate remedy before the Civil Court, the learned Assistant Collector has effectively nullified the entire

proceedings conducted over the last seventeen years. Such a course exposes the petitioners to serious prejudice, including objections as to limitation, multiplicity of proceedings, unnecessary delay, and the possible unavailability or loss of evidence already recorded before the Revenue Court. The impugned order, therefore, defeats the very object of the saving provision contained in S.O. 3808(E). Even otherwise, if the learned Assistant Collector was of the view that, owing to the statutory amendment, he could no longer proceed with the trial, the proper and lawful course was to remit the case record to the competent Civil Court from which it had originally been transferred, rather than directing return of the plaint under Order VII Rule 10 CPC.

11. In case titled “*Joginder Tuli vs. S.L. Bhatia and Another*” **AIRONLINE 1996 SC 108**, it was held as under: -

“Shri Mohan, learned counsel for the appellant, contended that in the written statement, the appellant has raised the issue of territorial jurisdiction of the Court and also the valuation in that behalf. He also stated in the written statement that he is entitled to the counter-claim for the improvement effected thereunder. When we directed the learned counsel to produce the issue framed by the trial Court by our order dated September 16, 1996, Shri Mohan has now fairly stated that no issue of counter-claim had been framed by the trial Court. It is also admitted position that he did not pay any court fee on the counter-claim. He sought permission to pay the court fee on the counter-claim and direction to frame the issue and to proceed with the trial. We are afraid that we cannot give that direction. Once he has not paid the court fee within the time prescribed, necessarily, it is barred by limitation. Therefore, at this distance of time, he cannot be allowed to pay the court fee in this regard. Under these circumstances, the original order passed by the High

Court directing the District Judge to proceed from the stage at which the suit stood transferred to the District Court appears to be correct in the circumstances. Normally, when the plaint is directed to be returned for presentation to the proper Court perhaps it has to start from the beginning but in this case, since the evidence was already adduced by the parties, the matter was tried accordingly. The High Court had directed to proceed from that state at which the suit stood transferred. We find no illegality in the order passed by the High Court warranting interference”.

12. In the aforesaid background, the invocation of Order VII Rule 10 of the Code of Civil Procedure by the Assistant Collector was wholly unwarranted and has caused serious prejudice to the rights of the plaintiff/petitioners. Upon issuance of the aforesaid S.O., the suit ought to have been continued from the stage at which the Assistant Collector was deemed to have been divested of the jurisdiction to try the same. Consequently, the impugned order is ***set aside***. The Assistant Collector is directed to transmit the entire suit record to the Court of the District Mobile Magistrate (Traffic), Udhampur, which shall proceed with the trial of the suit from the stage at which it stood on the date of transfer, strictly in accordance with law.
13. The petition is, accordingly, ***disposed of***.

(Sanjay Parihar)
Judge

Jammu
17.07.2026
Diksha

Whether the order is speaking: Yes

Whether the order is reportable: Yes