

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 2278/2026

Mohd. Sharief

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

Through: Mr. Vikram Sharma, Sr. Advocate with
Mr. Sachin Dev Singh, Advocate

vs

UT of J&K and others

..... Respondent(s)

Through: Mr. Vipran Gandotra, Advocate
Ms. Chetna Manhas, Advocate vice
Mrs. Monika Kohli, Sr. AAG

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

ORDER

24.07.2026

1. Learned counsel for the petitioner submits that the petitioner is the rightful owner and claimant of land measuring 94 Kanals and 15 Marlas, in respect whereof Mutation No. 1252 dated 07 Haar 2010 BK has been wrongly attested in favour of respondent No. 4, namely the Custodian, Evacuee Property, Jammu. It is further submitted that out of the aforesaid land, an extent of 16 Kanals and 15 Marlas has been acquired for the construction of the Ring Road by the National Highway Authorities, and the compensation amount has been released by respondent No. 6 in favour of respondent No. 4. According to the petitioner, despite informing respondent No. 6 that the petitioner is in possession of the land as reflected in the Khasra Girdawari, the compensation has been illegally disbursed to respondent No. 4. It is contended that the claim of respondent No. 4 that the land is evacuee property is wholly contrary to the revenue record.
2. Learned counsel further submits that the petitioner had approached the Custodian, Evacuee Property, Jammu by filing an application seeking

cancellation of Mutation No. 1252 on the ground that the mutation had been wrongly attested in favour of the Custodian, whereas it ought to have been sanctioned in favour of the petitioner on the basis of a Will. A further prayer was made for issuance of a No Objection Certificate by the Custodian. The said application, however, came to be dismissed by the Custodian vide order dated 14.05.2022.

3. It is the specific case of the petitioner that the land in question is not evacuee property, as no declaration under Section 6 of the Jammu and Kashmir Evacuees' (Administration of Property) Act, 2006 **“the Act”** has ever been issued. Learned counsel submits that the petitioner sought information from the Custodian Department regarding whether land falling under Khasra Nos. 5493, 5494, 1490 and 1492, situated at Village Kanger, Tehsil Bhalwal, District Jammu, had ever been declared evacuee property. The Custodian Department informed the petitioner that the notification under Section 6 was not traceable. It is, therefore, contended that the petitioner, being the owner in possession of the land, is entitled to receive the compensation, which has been wrongly disbursed to respondent No. 4.
4. Having heard learned counsel for the petitioner and perused the record, it is evident that Mutation No. 1252 dated 07 Haar 2010 BK records the land in question as Custodian property. It is also an admitted position that the petitioner's application seeking cancellation of the said mutation has already been rejected by the Custodian vide order dated 14.05.2022.
5. The principal contention of the petitioner is that the property cannot be treated as evacuee property in the absence of a declaration under Section 6 of the Act. Whether the land in question is in fact evacuee property or continues to be proprietary land of the petitioner is a disputed issue which

falls for determination under the provisions of the Act by the competent statutory authorities.

6. It is not disputed that Section 30-A of the Jammu and Kashmir Evacuees' (Administration of Property) Act, 2006 confers revisional jurisdiction upon the Special Tribunal to call for and examine the record of any proceedings in which an order has been passed by the Custodian or the Custodian General for the purpose of satisfying itself as to the legality, propriety or correctness of such order, and to pass appropriate orders thereon.
7. Equally, Section 8 of the Act provides that any person claiming any right, title or interest in property treated as evacuee property is entitled to approach the competent authority for adjudication of such claim by asserting that the property is not evacuee property or that his rights are unaffected by the provisions of the Act.
8. In the present case, the petitioner asserts ownership and possession over the property while simultaneously challenging the legality of Mutation No. 1252 and the consequential release of compensation in favour of the Custodian Department. The grievance raised by the petitioner essentially relates to the correctness of the mutation and the status of the land as evacuee property. Such issues are squarely amenable to adjudication under the statutory mechanism provided under the Act.
9. Since the petitioner's application has already been rejected by the Custodian, the appropriate remedy available is to invoke the revisional jurisdiction of the Tribunal under Section 30-A of the Act. Likewise, if the petitioner seeks a declaration that the property is not evacuee property, the remedy contemplated under Section 8 of the Act is also available. The

existence of these efficacious statutory remedies precludes the exercise of extraordinary writ jurisdiction at this stage.

10. When confronted with the availability of the aforesaid statutory remedies, learned counsel for the petitioner submitted that the petitioner may be permitted to withdraw the present writ petition with liberty to avail the remedies available under law and stated that the petition would not be pressed at this stage, he however sought to be protected from the rigour of limitation.
11. In view of the statement so made, the writ petition **is** dismissed as not pressed, with liberty to the petitioner to avail such statutory remedies as may be available under the Jammu and Kashmir Evacuees' (Administration of Property) Act, 2006 or any other remedy available in law without being insisted upon to come out of the issue of limitation. It is clarified that this Court has not expressed any opinion on the merits of the controversy, and all questions of fact and law are left open to be urged before the competent forum.
12. ***Disposed of*** accordingly.

(Sanjay Parihar)
Judge

Jammu
24.07.2026
Rahul Sharma