

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

WP (C) No. 2274/2023

CM No. 5271/2023

Date of Pronouncement:- 01.10.2026

Uploaded on:- 05.10.2026

Prem Sagar**.....Petitioner(s)**

Through: Mr. Gagan Basotra, Sr. Advocate with
Ms. Navdeep Kour, Advocate.

Vs.**UT of J&K and others.****..... Respondent(s)**

Through: Ms. Priyanka Bhat, Assisting counsel &
Ms. Malvika Gupta, Advocate vice
Ms. Monika Kohli, Sr. AAG for R-1 to 3.
Mr. Sandeep Gupta, CGSC for R-4 &5.
Mr. M K Sharma, Advocate for R-6.

CORAM: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**ORDER(ORAL)**

- 01.** The petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of the India, seeking direction to the respondents to remove the illegally constructed tin sheds of respondent No. 6 constructed over Bani-Basohli main road, adjacent to the residence of the petitioner. The petitioner further seeks a direction to respondent Nos. 4 and 5 to construct drains, culvert and other incidental construction for macadamizing the said road.
- 02.** The petitioner appears to be aggrieved by the failure on the part of the respondents to remove the said encroachment, in the shape of tin sheds

constructed by respondent No. 6 over the main Bani-Basholi main road, adjacent to his land.

- 03.** The petitioner has been entangled in multiplicity of litigation to vindicate his right and, during the process, the revenue authorities also constituted the Committees of revenue officials, who also had submitted the spot report dated 13.08.2022, in compliance to order dated 28.04.2022, passed in WP(C) No. 2038/2020. At the same time, respondent Nos. 4 & 5, who have been entrusted with the responsibility of constructing and maintaining the defence roads, including the road in question, have taken the stand that no encroachment has been found upon the road and that the permissible width of sixty (60) feet is maintained all along, including at the alleged disputed place.
- 04.** The principal submission of the petitioner is that, because of the alleged construction of the tin sheds between his house and the road, he is facing hardship in enjoyment of his property, and also that the land over which the alleged tin sheds have been constructed is a public place/property and, once respondent No. 6 has received the compensation, he is duty bound to remove the encroachment making the said space available and free for the public use.
- 05.** After hearing learned counsel for the parties and going through the pleadings, it appears that the petitioner is seeking a direction for removal of the tin sheds, which have come up over the road constructed by respondent Nos. 4 & 5. At the same time, on a perusal of the report dated

13.08.2022 read with the statement of facts filed by Deputy Commissioner, Kathua in CCP(S) No. 311/2020 arising from WP(C) No. 1126/2020, it appears that the revenue authorities themselves are groping in the dark and have, rather, created confusion instead of coming up with a true fact finding report.

06. Be that as it may, this Court, while exercising its extraordinary writ jurisdiction, cannot go into the disputed questions of fact, which, of course, falls within the domain of the Civil Court, and only after evidence is led, facts can be proved or disproved.
07. However, the grievance of the petitioner, so far as it pertains to removal of the tin shed, allegedly constructed on a public place, i.e., the road, by respondent No. 6 after obtaining compensation, has serious and deleterious consequences, inasmuch as, once the land stood acquired out of the public exchequer, it cannot be utilized for a private purpose. Therefore, any inaction on the part of the official respondents, particularly respondent Nos. 1 to 3 cannot be overlooked.
08. In view of the above, this writ petition is entertained for this limited purpose and is, accordingly, disposed of with a direction to respondent Nos. 1 to 3 to immediately proceed into the matter in the light of the report dated 13.08.2022 made in compliance to order dated 28.04.2022, passed in WP(C) No. 2038/2020 titled, “***Uma Kant Sharma Vs. UT of J&K and ors.***” read with statement of facts filed by Deputy Commissioner, Kathua in CCP(S) No. 311/2020 [WP(C) No. 1126/2020],

after affording a proper opportunity of being heard to the parties, the encroachment if any found be removed, after following proper procedure. Let this exercise be completed within a period of eight weeks from the date, copy of this order is made available to the said respondents.

09. *Disposed of*, alongwith connected application.

**(SHAHZAD AZEEM)
JUDGE**

JAMMU
01.10.2026
Ram Krishan