

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

OWP No. 462/2004

Reserved on: 12.08.2026

Pronounced on: 21.08.2026

Uploaded on: 21.08.2026

Whether the operative part or full judgment
is pronounced: Full judgment.

Sunil Kumar Age 22 years
S/o Sh. Thakur Dass R/o
Village Karlai Suki Shakti
Nagar Udhampur.

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

Through: Mr. Rohit Bhalwal, Advocate

Vs

**1. Jammu & Kashmir Special
Tribunal Jammu.**

2. Abdul Rehman S/o Sh. Abdul
Gani R/o Village Omala Tehsil
and District Udhampur.

..... Contesting Respondent(s)

3. Isher Dass S/o Sh. Thakur Dass.

4. Mohan Lal S/o Sh. Thakur Dass.

.....Proforma Respondents

5. Krishan Lal S/o Sh. Thakur Dass.

6. Vijay Kumar S/o Sh. Thakur
Dass.

7. Om Parkash S/o Sh. Thakur Dass.

8. Hans Raj S/o Sh. Thakur Dass
-Respondents 3 to 8 residents of
Karlai Suki Shakti Nagar
Udhampur.

**9. Custodian General J&K Govt.
Jammu.**

Through: Mr. S. S. Ahmed, Advocate
Mr. Rahul Raina, Advocate

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

JUDGMENT

1. The petitioner claims that his father was initially inducted as a tenant by
Mst. Suriya Begum in respect of the land measuring 28 Kanals 18 Marlas

comprising Survey No. 286, 311, 289, 387/312 and 289, situated at Village Omala, Tehsil and District Udhampur. Before 1970, said Mst. Suriya Begum also surrendered her tenancy rights in favour of the owners. Thereafter, the father of the petitioner became a direct tenant under the owners, i.e. Inder Singh and others and started paying the rent directly to them.

2. Respondent No. 2, who is the son of the brother of the Smt. Suriya Begum, filed an application dated 29.05.1981 for eviction of the father of the petitioner on the ground that the land in question was allotted to him on 26.02.1952, which was an Evacuee Property, but forcibly occupied by the father of petitioner. He further pleaded that he was minor at the time of allotment. The application filed by respondent No. 2 was disposed by the District Assistant Custodian in terms of order dated 28.05.1982. Aggrieved by the order dated 28.05.1982, the father of the petitioner filed an appeal before the Custodian Evacuee Property, Jammu but the same was dismissed in terms of order dated 27.06.1983. Thereafter, the father of the petitioner filed revision petition against the said order dated 27.06.1983 before respondent No. 9. The said revision petition came to be dismissed for non-prosecution on 03.04.1986. The petitioner thereafter filed an application seeking restoration of the revision petition, contending that his father had suffered a paralytic stroke and, consequently, was unable to appear, which had resulted in the dismissal of the revision petition. It was further contended that the revision petition could not have been dismissed for default. However, respondent No. 9, vide order dated 05.08.2002, dismissed the restoration application.

Aggrieved thereby, Respondent No. 2 preferred a revision petition before Respondent No. 1, which also came to be dismissed vide order dated 26.02.2004.

3. The petitioner has now filed the present petition for assailing the orders dated 26.02.2004, 05.08.2002 and 03.04.1986 passed by respondent No. 1 and respondent No. 9 respectively, on the ground that the revision petition could not have been dismissed for non-prosecution and further that his father had suffered a paralytic stroke and ultimately died in the year 1998. On account of his ailment, petitioner's father could not attend the proceedings and being minor, it was not possible for the petitioner to prosecute the revision petition preferred by the father of the petitioner. It was also stated that the earning sons of the father of the petitioner had separated from him much before he fell ill. It was also stated the petitioner and Hans Raj were minor, therefore, it was not possible for them to prosecute the said case. It is urged that the petitioner was only three years of age when his father suffered paralytic stroke in 1985 and after attaining majority, the petitioner collected the papers and came to know that the revision petition was dismissed in default on 03.04.1986.
4. Respondent No. 2 has filed counter affidavit, thereby denying the averments made by the petitioner in the present petition and it is stated that notwithstanding the false plea of the ailment father of the petitioner, who admittedly died in the year 1998, in fact, the father of the petitioner had lost interest in the legal proceedings and did not pursue the same during his lifetime realising that the land belonged to respondent No. 2

and was rightly delivered possession thereof by the District Assistant Custodian.

5. Heard learned counsel for the parties and perused the record.
6. Learned counsel for the petitioner has primarily relied upon the minority of the petitioner and the alleged ailment of his father as the grounds for seeking restoration of the revision petition, dismissed for non-prosecution. Admittedly, the revision petition preferred by the petitioner's father was dismissed for non-prosecution vide order dated 03.04.1986. The petitioner's father subsequently passed away in the year 1998. Thus, it is self-evident that for a long expanse of twelve years during his lifetime, no application for restoration was ever preferred by him. Furthermore, respondent No. 1 has recorded a finding that no documentary evidence was adduced to substantiate the father's alleged illness. Even before this Court, the petitioner has failed to produce any cogent documentary evidence in support thereof. The fact remains that the application for restoration was filed after an inordinate and unexplained delay of fifteen years. The petitioner's minority cannot, by itself, constitute a valid ground for seeking restoration of the revision petition, particularly when his father, during his lifetime, neither assailed the order of dismissal nor sought restoration of the revision petition.
7. The judgment relied upon by learned counsel for the petitioner in **Jwala Prasad v. Ajodhya Prasad, AIR 1983 Supreme Court 304**, is distinguishable on facts and is of no assistance to the petitioner in the present case. In the said case, the application for restoration of the revision petition was dismissed on the very day it was filed, without

affording the applicant an opportunity of being heard. The facts of the present case are entirely different.

8. Viewed thus, the present petition is found to be without merit, as such, the same is **dismissed**.

(RAJNESH OSWAL)
JUDGE

Jammu
21.08.2026
Neha-II

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

