

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

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WP(C) No 2173/2022
CM No. 5888/2022

Reserved on: 19.08.2026
Pronounced on: 21.08.2026
Uploaded on: 21.08.2026

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

Anirudh Chand Katoch and ors.

.....Petitioner(s)

Through: Mr. S. Jasvinder Singh, Advocate &
Ms. Gayatri Jamwal, Advocate

Vs.

UT of J&K and others

.....Respondent(s)

Through: Ms. Monik Kohli, Sr. Advocate with
Ms. Sagira Jaffar, Advocate

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

JUDGMENT

1. Petitioner No. 1 is the son of late Sh. Vijay Chand Katoch, whereas petitioner Nos. 2, 3 & 4 are the children of Smt. Kiran Devi. Sh. Vijay Chand Katoch and Smt. Kiran Devi, both deceased, were the son and daughter, respectively, of late Sh. Nischint Chand Katoch. The petitioners, through their attorney holder, approached the Assistant Collector 1st Class (Tehsildar), Marh, seeking attestation of the mutation of inheritance, being the successors-in-interest of late Sh. Nischint Chand Katoch. However, vide order dated 22.08.2022, the Assistant Collector 1st Class (Tehsildar), Marh, declined to pass any order on the ground that it would not be appropriate to proceed with the matter, as the issue was sub-judice

before various courts, particularly before the Court of learned 1st Additional District Judge, Jammu.

2. The petitioners, through the medium of the instant petition, have impugned the order dated 22.08.2022, mainly on the ground that the matter stated to be sub judice before the Court of learned 1st Additional District Judge, Jammu, pertained to an alleged fraudulent decree obtained by one Bansi Lal and others. It is submitted that the learned 1st Additional District Judge, Jammu, had stayed the operation of the judgment and decree dated 20.12.2010. The application preferred by Bansi Lal and others seeking initiation of contempt proceedings against the plaintiff therein was also dismissed vide order dated 29.10.2016. Thereafter, another application filed by them seeking restraint against the plaintiff therein from withdrawing the rental compensation being paid by the Department of Agriculture was also dismissed by the learned 1st Additional District Judge, Jammu, vide order dated 10.03.2017.
3. The aforesaid orders dated 29.10.2016 and 10.03.2017 were challenged by Bansi Lal and others before this Court under Section 104 of the Constitution of Jammu and Kashmir. This Court, vide order dated 03.11.2018, dismissed the said petition. The Special Leave Petition preferred against the order dated 03.11.2018 was also dismissed by the Hon'ble Supreme Court of India vide order dated 23.08.2019.
4. The contention raised by the petitioners in the present petition is that the respondents have attested the mutation of inheritance in favour of Nasib Chand Katoch, son of late Sh. Nischint Chand Katoch, while the same has not been attested in favour of the petitioners, who are the legal

representatives of late Sh. Vijay Chand Katoch and Smt. Kiran Devi, as noticed hereinabove.

5. The respondents have filed their response, stating therein that an application was submitted by Harpal Singh, Lt. Col. (Retd.), seeking attestation of mutation of inheritance, which was forwarded to the Naib Tehsildars, Jhiri and Marh, for necessary action. The Naib Tehsildar, on the basis of the report furnished by the concerned Patwari Halqa, reported that the legal heirs of the deceased were residing outside the erstwhile State of J&K and that none of the legal heirs had appeared before his office. It was further reported that the inheritance mutation in question was disputed.
6. It is further stated that the residents of village Lalyal Camp, refugees of the 1971 Chhamb, submitted an application objecting to the attestation of the said mutation on the ground that the entire land situated at Beli Azmat had already been allotted to them in the year 1976 and that they continue to be in possession thereof. The said application was forwarded to the Naib Tehsildar, Marh, for examination and necessary action. Accordingly, vide letter dated 26.11.2021, the Naib Tehsildar, Marh, submitted a report stating that the inhabitants of village Lalyal, through Roshan Lal, had raised an objection that the land situated at village Beli Azmat, which was the subject matter of the inheritance mutation, had already been allotted to them and that they were in peaceful possession thereof. They accordingly requested that the mutation in respect of the said land not be attested.
7. It is further stated that, in terms of Standing Order No. 23-A, Rule 29, sub-rule (1), where a dispute exists regarding attestation of a mutation, the

Assistant Collector, 2nd Class, is not competent to attest such disputed mutation. The matter was, accordingly, remitted to the Naib Tehsildar, Marh, with a direction to re-verify the case on the spot and submit a detailed report. The Naib Tehsildar, Marh, thereafter submitted a detailed report dated 03.02.2022, narrating the facts and circumstances of the case. The said report was forwarded to the SDM, Marh, vide communication dated 07.02.2022, for his opinion. The same was returned by the SDM, Marh, with a direction to proceed further in accordance with the rules for attestation of the aforesaid inheritance mutation. It is further stated that the order dated 22.08.2022 was rightly passed, as the matter was sub judice before various courts.

8. Heard learned counsel for the parties and perused the record.
9. In terms of order dated 04.11.2024, the respondents were directed to file an affidavit indicating the various courts before which the issue relating to attestation of the mutation of inheritance is pending. In compliance thereof, respondent No. 3 filed an affidavit stating therein that the following cases are pending:

“i) Case titled *Vijay Chand Katoch vs. Bansi Lal and others* pending before the court of First Additional District Judge, Jammu.

ii) Revision titled *Neeraj Bhagat and Ors. Vs. Sub Divisional Magistrate, Marh and others* pending before the court of Financial Commissioner Revenue, J&K.

iii) Revision titled *Neeraj Bhagat and ors. Vs. Sub Divisional Magistrate Marh and others* pending before the Court of Divisional Commissioner Jammu J&K.

iv) Case titled *Anirudh Chand Katoch and others vs. Rajesh Bhagat and others* pending before the Court of Sub Divisional Magistrate, Marh later decided on 11.03.2024.

v) Case titled *Roshan Lal and others vs. UT of J&K and others* under section 27 of the Land Revenue Act pending before the Court of Financial Commissioner, Revenue J&K.

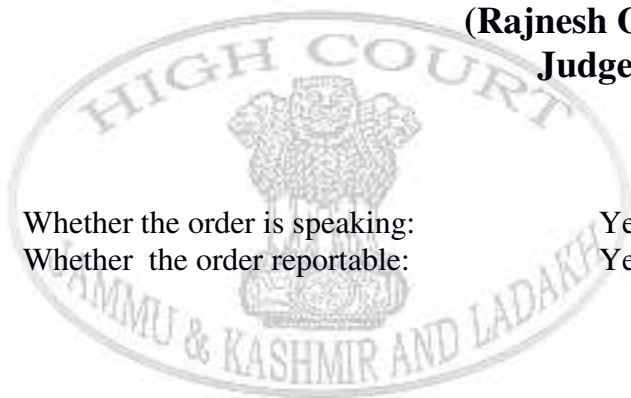
10. The petitioners have also filed an affidavit in response to the affidavit submitted by the Tehsildar, setting out therein the details of the litigations pending before the various courts.
11. The impugned order primarily makes reference to the suit pending before the Court of learned 1st Additional District Judge, Jammu. The said suit has been instituted challenging the judgment and decree dated 20.12.2010 obtained by Bansi Lal and others, wherein the parties have been directed to maintain status quo. Thus, it is evident that the issue relating to inheritance is not the subject matter of the said suit pending before the learned 1st Additional District Judge, Jammu.
12. Respondent No. 3, in his affidavit, has admitted that the case titled *Anirudh Chand Katoch and others v. Rajesh Bhagat* was decided by the Deputy Commissioner vide order dated 11.03.2024. The revision petitions titled *Neeraj Bhagat and others v. Sub Divisional Magistrate, Marh and others* and titled, *Neeraj Bhagat and others v. Sub Divisional Magistrate, Marh and others*, stated to be pending before the Financial Commissioner and the Divisional Commissioner, Jammu, respectively, also stand decided. As on date, the only pending proceedings are the appeal against Mutation No. 72 before the Deputy Commissioner, Jammu and the suit before learned First Additional District Judge, Jammu.
13. Therefore, insofar as the attestation of the mutation of inheritance in favour of the petitioners is concerned, there is no lis pending before any

court or competent authority. Consequently, the reason assigned in the impugned order for declining to proceed with the petitioners' claim, on the ground that the matter is sub judice, no longer survives.

14. In view of above, the present petition is disposed of with a direction to respondent No. 3 to consider and decide the application filed by the petitioners for attestation of mutation of inheritance, as expeditiously as possible, strictly in accordance with law. The pendency of the civil suit before the learned 1st Additional District Judge, Jammu, and the appeal pending before the Deputy Commissioner, Jammu, shall not come in the way of respondent No. 3 in considering and deciding the said application in accordance with law.
15. Disposed of.

(Rajnish Oswal)
Judge

Jammu
21.08.2026
Karam Chand



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