

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

**Case No: LPAOW No. 95/2017
IA No. 1/2017**

*Reserved on: 12.02.2026
Pronounced on: 19.02.2026
Uploaded on: 19.02.2026*

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

State of J&K and another

..... Appellant(s).....

Through: Mr. Rohan Nanda, CGSC.

Vs

Phunchok Dorjey and others

..... Respondent(s)...

Through: Mr. P.N.Raina, Sr. Advocate with Mr.
J.A.Hamal, Advocate.

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

JUDGMENT

PER OSWAL-J

1. The appellants are aggrieved of the judgment dated 15.05.2017 rendered by the learned writ Court in OWP No.479/2014 whereby Order No. 532-Rev of 2014 dated 06.02.2014 passed by the appellant

No.2 by virtue of which the Mutations attested in favour of the respondents were set aside, and the appellants were directed to release the compensation as has already been assessed in favour of the respondents, within a period of two months from the date of passing of the order.

2. The appellants have assailed the order dated 15.05.2017 on the grounds *inter alia* that the learned writ Court has not rightly considered the contentions of the appellants that the land regarding which the Mutations attested in favour of the respondents were cancelled, was Kahcharai land, therefore, the Mutations could not have been attested in favour of the respondents, and further that it was brought to the notice of the learned writ Court that the appellants herein were not arrayed as respondents in OWP No.734/2007 and LPAOW No. 61/2019, and as such, the orders passed in the aforesaid writ petition and LPA were not binding upon the appellants. It is also contended that in OWP No.428/2013, which was filed before the Srinagar Wing of this Court, a specific stand was taken by the appellants regarding the land being Kahcharai, and the Court directed the respondents therein to complete the entire process of acquisition and make compensation whatever due to the claimants, strictly in accordance with the law. Precisely, the contention of the appellants is that the Mutations attested in favour of the respondents could not have been attested as the land in question was Kahcharai land, and as such order dated 16.02.2014 was rightly passed.

3. Mr. Rohan Nanda, learned CGSC, has submitted that the Court's directive in OWP No. 428/2013 mandated the compensation for 'due claimants', a category that does not automatically include the respondents. He maintained that since the subject land is classified as Kahcharai, any Mutation attested in favour of the private individuals was inherently invalid. Therefore, the Collector acted within his authority by quashing these erroneous entries through the order dated 06.02.2014 to protect the interests of the State.
4. *Per contra*, Mr. P. N. Raina, learned Senior Counsel appearing for the respondents, has submitted that the respondents have cultivated the land for an extended period and that the Mutations were duly attested in their favour under Eilan No. 38 dated 7th Sawan, 1989. Learned Senior counsel has vehemently argued that since the matter attained finality by virtue of order passed by the learned Writ Court in OWP No. 734/2007, the appellants had no grounds to re-examine the validity of the Mutations, especially when the Army authorities had already taken the possession from the respondents following compensation negotiations. Furthermore, learned Senior counsel referred to order dated 06.02.2014 to submit that appellant No. 2 has admitted that the respondents permitted the Army to take possession after agreeing to a negotiated rate of ₹60,000/- per kanal. Given this categorical admission of possession, Mr. Raina, learned Senior counsel has contended that it was not legally open to the appellant No. 2 to subsequently quash the Mutations.
5. Heard learned counsel appearing for the parties and perused the record.

6. A perusal of the order dated 06.02.2014 reveals that appellant No. 2 has quashed the Mutations pertaining to land measuring 434 Kanals and 08 Marlas, comprising Khasra Nos. 2787, 2782, 2337, 2775, 2780, 2783 and 2820, situated at village Spituk, District Leh, on the ground that the said Mutations had been wrongly attested in respect of Kahcharai land, i.e., State land.
7. There is nothing on record to demonstrate that the appellants afforded the respondents, being beneficiaries under the Mutations, any opportunity of hearing prior to the issuance of the cancellation order dated 06.02.2014. Such omission is in clear derogation of the principles of natural justice. Furthermore, the validity of the original attestation under Eilan No. 38 (7th Sawan, 1989) has not been put in issue and remains undisputed.
8. The record indicates that in an earlier round of litigation initiated by several respondents herein through the medium of OWP No. 734/2007, the learned Writ Court disposed of the petition vide an order dated 15.09.2009. The learned Writ Court directed the respondents therein to complete the acquisition process and remit compensation to the petitioners therein within three months of receiving a copy of the order.
9. The Union of India assailed the order dated 15.09.2009 in LPAOW No. 61/2009. On 16.04.2012, a Coordinate Bench of this Court disposed of the appeal by consent of both parties. The Bench granted the appellants an additional six months' time from the date of the order to complete the acquisition process and pay the compensation whatever due to the respondents, strictly in accordance with the law.

10.The appellants' claim of being 'non-parties' to the earlier litigation is contradicted by the record. Both the State of J&K and the Chief Executive Officer (CEO) of the Ladakh Hill Development Council, Leh, were formally impleaded as respondents in OWP No. 734/2007. Since the CEO of the Council is the Deputy Commissioner of Leh himself, the appellants cannot now claim ignorance of those proceedings. Consequently, this contention is meritless and must be rejected.

11.In OWP No. 428/2013, filed before the Srinagar Wing of this Court, the appellants contended that the disputed land was village common land (*Kahcharai*) and thus could not be selectively mutated in favour of individual villagers. This writ petition was disposed of by an order dated 19.12.2013, in which the official respondents were directed to complete the acquisition process and pay any compensation due to the claimants, strictly in accordance with the law.

12.Surprisingly, rather than complying with the directions issued in OWP No. 428/2013 and OWP No. 734/2007, appellant No. 2 proceeded to cancel the Mutations without notice to the respondents. Once the orders dated 15.09.2009 in OWP No. 734/2007 and 16.04.2012 in LPAOW No. 61/2009 attained finality, it was no longer legally permissible for appellant No. 2 to unilaterally quash the Mutations. Such action improperly deprived the respondents of their accrued right to compensation, a right that had already crystallized following formal negotiations with the Army authorities

13.We have examined the judgment rendered by the learned Writ Court and find that the matter has been rightly appreciated and correctly

adjudicated. We do not find any reason whatsoever to interfere with or show indulgence in the present case. The appeal, being misconceived, is accordingly **dismissed** along with connected CM(s), if any.

(Rajnish Oswal)
Judge

(Arun Palli)
Chief Justice

Jammu
19.02.2026
Madan Verma-Secy

Whether order is speaking? **Yes.**
Whether order is reportable? **Yes.**

