

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

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OWP No. 955/2002
IA No. 1001/2002

Romesh Chander & Ors.

.....Petitioners

Through: Ms. Garima Gupta, Advocate

Vs

State of J&K & Ors.

.....Respondents

Through: Ms. Nazia Fazal, Assisting Counsel to
Mrs. Monika Kohli, Sr. AAG
Mr. O.P. Thakur, Sr. Advocate with
Mr. Nar Hari Singh, Advocate and
Mr. O.S. Bandral, Advocate
for intervener

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(04.06.2026)

- 01.** The three petitioners herein had ventured to file an appeal on **file No. 41/92/93 on 28.06.1993** before the Collector (Deputy Commissioner), Udhampur thereby impugning a **mutation No. 632** dated **01.12.2009 Samvat** attested by the Special Tehsildar, Ramnagar with respect to land comprising **Khasra Nos. 1044-min/366, 1044-min/366 and 1044-min/366** measuring **44 kanals** and **13 marlas** situated in village Jandrore, tehsil Ramnagar.

- 02.** The petitioners did not succeed in their said appeal which, though time-barred, was adjudicated upon merits by the appellate authority of the Collector (Deputy Commissioner), Udhampur who dismissed the appeal by virtue of an order dated **03.09.1993**.
- 03.** Aggrieved of outcome of their said appeal, the petitioners took up the matter in revenue revision under **Section 15 of the J&K Land Revenue Act, Svt. 1996 (1939 A.D.)**, before the Additional Commissioner, Jammu (with powers of Divisional Commissioner) on **file No. 11/Revision of 1993-94** on **09.09.1993**.
- 04.** In response to said revision of the petitioners, the revisional authority of the Additional Commissioner (with powers of Divisional Commissioner), Jammu, came to hold that the impugned mutation to the extent of **33 kanals and 13 marlas** of land comprising aforesaid khasra numbers required to be set aside and the nature of the land to be restored back to be '*Shamlat Land*'.
- 05.** The revisional authority of the Additional Commissioner (with powers of Divisional Commissioner), Jammu recorded a finding that the impugned mutation needed to be set aside only to that extent so as to ward off difficulty for the villagers.
- 06.** The Additional Commissioner (with powers of Divisional Commissioner), Jammu made a reference to the Financial

Commissioner (Revenue), J&K, Jammu for accepting of the reference.

- 07.** The reference was taken on revision **file No. 115 of 1995-96** of the file of the Financial Commissioner (Revenue), J&K, Jammu. It was at this stage of reference proceedings that intervention from the Zamindars of village Jandrore, tehsil Ramnagar had come to take place as otherwise at the appeal stage as well as in the revision stage, the petitioners were pursuing their cause against State of Jammu and Kashmir and the revenue officials concerned without involvement of any private individual and/or the residents of village Jandrore.
- 08.** The Financial Commissioner (Revenue), J&K, Jammu came to dispose of the reference by virtue of an impugned order dated **29.04.1997.**
- 09.** The Financial Commissioner (Revenue), J&K, Jammu came up with the introduction about the manner in which the reference has been made but proceeded to examine the reference in absence of the petitioners by an observation in its order that **petitioner has absented himself from the proceedings.**
- 10.** This Court is not interested to do **hair splitting** but it appears that the Financial Commissioner J&K, Jammu had not even an idea as how many petitioners were involved in the reference otherwise the expression would not have been

singular when three petitioners were involved in the reference and that gives scope for this Court to understand that there was a non-application of mind at the end of the Financial Commissioner (Revenue), J&K, Jammu at all point of time in authoring the impugned order in absence of the petitioners.

11. This Court is not able to find any inference or impression from the order impugned as to whether the petitioners were absenting themselves from the reference proceedings repeatedly or it was an absence of that day only when the reference proceedings were taken up which proved to be prejudicial to the cause of the petitioners.

12. This Court is constrained to make the aforesaid observations bearing in mind the fact that the appellate authority of Collector (Deputy Commissioner), Udhampur in its order dated **03.09.1993** put himself on record to say that the relevant revenue record of village Jandrore, tehsil Ramnagar upon examination shows the cultivating possession of the petitioner No. 1's father Beli Ram as also of the petitioners No. 2 and 3 before the attestation of the impugned mutation.

13. The very fact that the petitioners had earned indulgence from the revisional authority of the Additional Commissioner (with powers of Divisional Commissioner), Jammu, qua the impugned mutation meant that the petitioners were serious stakeholders at the time of hearing of the reference before the Financial Commissioner (Revenue), J&K, Jammu and

therefore, before proceeding ex parte hearing of the reference, the petitioners ought to have been provided an opportunity of presence through their respective counsel to argue the matter which was to be done purely on the aspect of law and for that petitioners themselves were to play no role except to bank upon lawyer to address the arguments.

14. Therefore, this Court is of the opinion that rules of natural justice became casualty in the exercise of quasi-judicial jurisdiction on the part of the hurried bent of mind of the Financial Commissioner (Revenue), J&K, Jammu and that renders the final order dated **29.04.1997** of the Financial Commissioner (Revenue), J&K, Jammu as an illegality which is not curable except by setting aside the order and remanding the matter back to the Financial Commissioner (Revenue), J&K, Jammu for hearing the reference not only in presence of the counsel of the petitioners but also of the interveners who had come forward with an application filed at the reference stage.

15. Accordingly, order dated **29.04.1997** passed by the Financial Commissioner (Revenue), J&K, Jammu is **set aside by remanding the matter back to the Financial Commissioner (Revenue), J&K, Jammu** with direction to restore reference to its original file number.

16. Parties are directed to appear before the Financial Commissioner (Revenue), J&K, Jammu on **20.07.2026**.

- 17.** This Court has made no observation on merits of the case leaving it free for the Financial Commissioner (Revenue), J&K, Jammu, to take up the adjudication on merits of the case in reference by taking into consideration the revenue record in its entirety.
- 18.** The petition is accordingly, ***disposed of***.
- 19.** A copy of this order be forwarded by the learned Registrar Judicial Jammu to the learned Financial Commissioner (Revenue) J&K, Jammu for notice and consequent compliance.

JAMMU
04.06.2026
SUNIL

