

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

OWP No. 1744/2017

Date of Pronouncement:- 28.04.2026

Uploaded on:- 29.04.2026

Deepak Kumar

....Petitioner(s)

Through:- Mr. Sandeep Singh, Advocate.

V/s

State of J&K and Anr.

.....Respondent(s)

Through:- Ms. Jagmeet Kour, Advocate vice
Mr. Raman Sharma, AAG.

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

1. By this petition, filed under Article 226 of the Constitution of India, the petitioner herein has challenged Notice dated 25.10.2017 issued by respondent No. 2, by virtue of which, he has been directed to remove the gate without following due course of law.
2. It is stated that the petitioner is the owner in possession of the land measuring 04 Kanals falling under Khasra No. 567 min of village Aghar Ballian, Tehsil and District Reasi, which is registered in the name of his father, where he has constructed a house and is staying in the said house along with his family. He has also installed a gate on the entrance of his house. The lane has been constructed by the Rural Development Department under MGNREGA Scheme, leading to the house of the petitioner, which is situated on his

proprietary land. The impugned notice has been issued by respondent No. 2, thereby directing the petitioner to remove the gate within a period of five days. It is also stated in the impugned notice that FIR/legal proceedings would be initiated against the petitioner, if he fails to remove the gate.

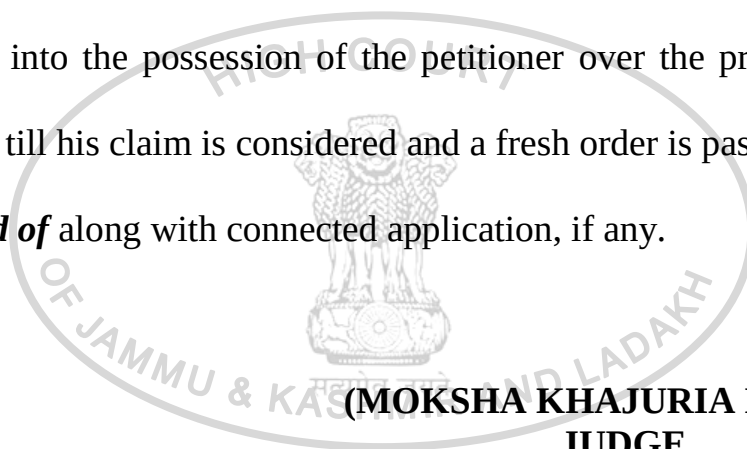
3. Learned counsel for the petitioner states that the impugned notice issued by respondent No. 2 is illegal, having been passed without adopting due process of law and without affording an opportunity of being heard to the petitioner.
4. ***Per contra***, reply stands filed by the respondents, wherein it is stated that the SHO Reasi was directed to restrain the petitioner from further encroaching upon the lane and simultaneously, the Assistant Commissioner Development, Reasi was also apprised. The revenue authorities were also requested to carry out the demarcation.

It is further stated in the reply, so filed, that during the site inspection conducted on 25.10.2017, the petitioner was found fixing a gate at the site in violation of the J&K Common Land (Regulation) Act, 1956, as such, he attempted to encroach upon a public asset created under MGNREGA, thereby obstructing the use of common passage, which is not permissible under law.

5. Learned counsel for the petitioner states that the petitioner would feel satisfied, if the impugned notice is set aside with a direction to

the respondents to consider the claim of the petitioner in accordance with the principles of natural justice.

6. Learned counsel appearing for the respondents states that she is not averse to the proposition made by learned counsel for the petitioner.
7. Be that as it may, this writ petition is disposed of, thereby setting aside the impugned notice, with a direction to respondent No. 2 to accord consideration to the claim of the petitioner by providing him an opportunity of being heard before taking any action against the petitioner. This exercise shall be carried out by the said respondent within a period of one month from the date of receipt of a certified copy of this order. However, the respondents are directed not to interfere into the possession of the petitioner over the property in question till his claim is considered and a fresh order is passed.
8. ***Disposed of*** along with connected application, if any.



(MOKSHA KHAJURIA KAZMI)
JUDGE

JAMMU
28.04.2026
Ram Krishan