

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

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WP(C) No. 2345/2019

c/w

OWP No. 2016/2018

OWP No. 2089/2018

OWP No. 2146/2018

Mohd. Bibi and others

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

Through: Mr. Vinod Kotwal, Adv.
Mr. Ajaz Choudhary, Adv.

vs

State of J&K and others

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffer, Adv.

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

ORDER
14.08.2026

1. This batch of four writ petitions arise out of a common order dated 04.09.2018 passed by the Deputy Commissioner(Collector), Jammu, whereby mutations attested in favour of the petitioners, have been cancelled. As such, they are being disposed of by a common order, however, it is deemed appropriate to have a brief resume of the facts involved in each petition
2. In **WP(C) No. 2345/2019**, the petitioners have sought the quashing of order dated 04.09.2018 issued by Deputy Commissioner(Collector), Jammu, respondent No. 2 herein, whereby the respondent No. 2 has set aside the Mutation No. 898 pertaining to the land falling under khasra No. 52 min

measuring 10 kanals 16 marlas situated at Village Khanpur Nagrota, Jammu being found patently illegal and void *ab-initio*. The petitioners have assailed the order impugned on the ground that the same has been passed without affording opportunity of hearing to the predecessor-in-interest of the petitioners. It is further stated that the respondent No. 2 has set aside the mutation No. 898 on being asked by the higher authorities and the higher authorities has confirmed that the mutation are illegal and wrong and the respondent No. 2 has acted upon the direction of the higher authorities to cancel the same, as such, he has not exercised the powers of a Collector. It is further stated that the land in question was in possession of the ancestors of the petitioners and now is in the possession of the petitioners and the order impugned is a non speaking order and passed without any justification as while setting aside the mutation, the Collector exercising the powers of appellate authority has to see that whether there is any illegality committed by the mutating officer in terms of Government Order No. LB-6 and Government Order No. S-432.

3. Objections have been filed by the respondents, wherein it has been stated that the mutation in question has been attested in violation of norms as contained in Government Order No. LB-6 of 1958 and Government Order No. S-432 of 1966. The said mutation has been cancelled vide order impugned as the rights of the Tenant-at-will had been conferred wrongly upon the petitioners in violation of the above mentioned orders.
4. In **OWP No. 2089/2018**, the petitioners have sought the quashing of order dated 04.09.2018 passed by respondent No. 3, whereby the respondent No. 3 has cancelled mutation Nos. 1468, 1478, 1463, 1471, 43 and 1459 in

respect of land measuring 53 kanals 11 marlas falling under khasra Nos. 65, 66, 67, 1319 min, 1332, 1336, 1343, 1344 and 1362 situated at different villages of Tehsil Nagrota, District Jammu, on the ground that without any notice or without any information and without adopting the due course of law as well as without adhering to the principles of natural justice, has passed the order impugned, whereby to cancel the aforementioned mutations of the land attested in their favour. It is submitted that no opportunity of being heard has been afforded to the petitioners while passing the order impugned, which is *per se* illegal.

5. Objections stand filed by the respondents, in which it has been stated that the mutations were cancelled as the same are found to have been illegally entered and attested which do not conform to the legal requirements and were found patently illegal and wrong and the petitioners have not any enforceable right to retain the property in question merely on the basis of the alleged mutations.
6. In **OWP No. 2146/2018**, the petitioners have sought the quashing of order dated 04.09.2018 passed by respondent No. 2 to the extent which affects the rights of the petitioners by virtue of which mutation No. 1408 dated 27.08.2016 for the land measuring 14 kanals 18 marlas situated at Village Jagti falling under khasra No. 1356 attested in favour of the petitioners, has been set aside. The quashing of order impugned has been sought on the ground that no opportunity of being heard was afforded to the petitioners. It is further stated that the Deputy Commissioner had no power to pass the order impugned.

7. Objections stands filed by the respondents, wherein it has been stated that illegal mutations were attested in favour of the petitioners and the Administrative Department vide order dated 20.04.2018 directed the Deputy Commissioner, Jammu to enquire into the genuineness of the mutations entered and attested for various villages of Tehsil Nagrota. Pursuant thereto, the Tehsildar Nagrota conducted the necessary enquiry and submitted a detailed report dated 26.06.2018, whereupon the Higher Authorities directed cancellation of all mutations found to have been illegally entered and attested. It is further stated that the facts regarding ineligibility of the petitioners and the illegality in attestation of mutation were established from the office record. Thus, the illegal mutations were cancelled.
8. In **OWP No. 2016/2018**, the petitioner has sought the quashing of order dated 04.09.2018 issued by the Deputy Commissioner, Jammu, whereby the respondent No. 3 has cancelled the Mutation Nos. 374 and 376 in respect of land measuring 27 kanals falling under khasra Nos. 207 min (old) and 243 min (new) situated at Nagrota, Jammu, on the grounds that the same is illegal, arbitrarily and without any lawful justification has been issued in violation of the principal of natural justice, as no notice/opportunity of being heard was granted to the petitioner and further for commanding the respondents not to dispossess the petitioner from the above mentioned land as the petitioner being the permanent resident of J&K and has a fundamental right to acquire/use the property in any manner and is also entitled to retain the property.

9. Objections stand filed by the respondents, stating therein that it has been found that the land in question in Mutation No. 374 is unculturable, but the same is recorded as Gair Mumkin Jhar, which is non-cultivable and as such, no mutation could have been attested in furtherance of Government Order No. S-432 of 1966. It is further submitted that various complaints were received for granting illegal benefits over different parts of State and JDA lands falling in the villages of Tehsil Nagrota and the Deputy Commissioner (Collector), Jammu has been asked by the higher authorities to examine these mutations and quash them all as Collector, which do not conform to the legal requirements and are found patently illegal and wrong *ab initio*.
10. Learned counsel for the petitioners in all these petitions have relied upon the judgments passed by the Coordinate Bench of this Court in WP(C) No. 2571/2021, titled, **Mohd. Farooq and others vs. U. T. of J&K and others** and in WP(C) No. 1588/2026, titled, **Om Parkash vs. U. T. of J&K and others**. They submit that no opportunity of being heard has been afforded to the petitioners while passing the order impugned and cancelled the mutations attested in their favour. On the other hand, learned counsel appearing for the respondents submits that all the mutations in question were illegally attested in the favour of the petitioners and accordingly, they were cancelled.
11. Heard learned counsel for the parties and perused the record.
12. It is evident that no opportunity of hearing has been afforded to the petitioners by the Deputy Commissioner, Jammu while passing the order impugned and also the respondent-Deputy Commissioner is not competent

to review/recall the order of the revenue officer subordinate to him i.e. Tehsildar/Naib Tehsildar. Moreso, the Deputy Commissioner has no power under the Land Revenue Act to exercise the revisional power. In fact, the controversy involved in the instant petitions is squarely covered by the above referred judgments of this Court.

13. In view of the above, the instant petitions are allowed. Order dated 04.09.2018 impugned in these petitions, *qua* the petitioners, is quashed. However, it shall be open to the competent authority under the Land Revenue Act to pass appropriate orders in respect of the subject lands after affording opportunity of being heard to the petitioners, of course in accordance with law.

(RAJNESH OSWAL)
JUDGE

Jammu
14.08.2026
Rakesh PS

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