

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

CJ Court

**Case: CM No. 1278/2026 in
LPA No. 211/2018**

Uploaded on: 11.03.2026

Ved Parkash and anr.

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

Through: Ms. Deepika Pushkar Nath, Advocate

Vs

State of J&K and ors.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

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

**ORDER
10.03.2026**

CM No. 1278/2026

1. This is an application seeking re-admission of the appeal that was dismissed for non-prosecution on 25.02.2026.
2. For the reasons set out in the application, which is duly supported by an affidavit, and particularly as the prayer made therein is not opposed by the learned counsel for the respondents, the same is allowed. Consequently, order dated 25.02.2026 is recalled and the appeal is restored to its original number.
3. Application stands **disposed of**.

CM No. 5998/2023

4. This is an application seeking condonation of delay in filing the application for bringing on record the legal representatives of deceased appellant No. 1, namely, Ved Prakash.
5. For the reasons stated in the application, the same is allowed. The delay in filing the application for bringing on record the legal representatives of deceased appellant No. 1 is condoned.
6. Application stands **disposed of**.

CM No. 5997/2023

7. This is an application for bringing on record the legal representatives of deceased appellant No. 1, namely, Ved Prakash.
8. For the reasons stated in the application, the same is allowed. The legal representatives of deceased appellant No. 1 are brought on record. Registry to update the index accordingly.
9. Application stands **disposed of**.

LPA No. 211/2018

1. Respondent No. 6 (deceased), substituted by his legal representatives, had filed the writ petition for grant of following reliefs:-

“I) Direct the respondents to open the path existing leading towards the house of the petitioner during the lifetime of the father and after his death, the petitioner is using the same from at least last 40 years continuously and only passage/pathway which petitioner is using even to take water etc. from the old Khu (Tube well) which has been closed/blocked by the respondents No. 6 & 7 illegally and forcibly existing over land comprising under Khasra No.'s 851 & 852 situated at Village Siot, Tehsil Siot, District Rajouri, by issuance of writ of mandamus;

II) To issue directions to the respondents to implement the order No. TS/385 dated 03.10.2018 passed by Tehsildar Siot forthwith by issuance of writ of mandamus;

III) Direct the respondents to ensure that the pathway leading to the house of the petitioner's family remain in use and shall not be

encroached or blocked by anybody including respondent No. 7 & 8 with the use of muscle power and force in future forcibly situated at Village Siot, Tehsil Siot, District Rajouri, by issuance of writ of mandamus;

IV) To issue directions to the respondents No. 1 to 5 to initiate strict penal action against the respondent No. 6 & 7 for encroaching and blocking 40/50 years old pathway leading to the residential house of the petitioner's family situated at Village Siot, Tehsil Siot, District Rajouri by issuance of writ of mandamus;

V) To declare the act of the respondents by which the respondents have failed to make the pathway functional by removing the encroachment done by blocking the pathway leading to the house of the petitioner's family situated at Village Siot, Tehsil Siot, District Rajouri till date as illegal, arbitrary, ultra virus and unconstitutional and failure of part of the respondents No. 1 to 5 to perform their statutory duties by issuance of writ of mandamus;

VI) Any other appropriate order or directions which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case also be issued in favour of the petitioner and against the respondents."

2. The writ petition came to be disposed of by the learned Writ Court vide order dated 03.11.2018.
3. The appellants have assailed the order dated 03.11.2018 primarily on the ground that without affording due opportunity of hearing to the appellants, who admittedly figured as respondent No. 6 and 7 in the writ petition, the learned Writ Court has disposed of the writ petition.
4. Heard learned counsel for the parties.
5. The order impugned dated 03.11.2018 (supra) is extracted as under:-

"Petitioner claims that public road leading to his house is being blocked by respondents No. 6 and 7.

Prayer made is that the Deputy Commissioner, Rajouri/Tehsildar Siot, Rajouri be directed to ensure removal of encroachment.

This petition along with connected IA is disposed of with a direction to the respondents No. 3 and 5 to consider the issue and in case there is any encroachment found on the public road leading to the house of the petitioner, appropriate action be taken within a period of one week from the date a copy of this order is served upon them."

6. The record depicts that the Deputy Commissioner, Rajouri has filed the action taken report pursuant to order dated 12.12.2018 passed by this Court.
7. This is the fact that the order impugned has been passed by the learned Writ Court without affording due opportunity of hearing to the appellants but equally true is that the learned Writ Court has not determined the rights of the contesting parties and has rather left respondent Nos. 3 to 5 free to consider the issue and has further directed that in case, there is any encroachment found on the public road leading to the house of respondent No. 6 herein, appropriate action be taken within one week from the date of receipt of the order.
8. Whether there is any public road or not, the said issue is to be decided by the authorities concerned. As the learned Writ Court has not finally determined the rights of the parties and has left the issue open to be decided respondent Nos. 3 to 5, we modify the order impugned to the extent that before passing any final order, respondent Nos. 3 to 5 shall afford due opportunity of hearing to the affected parties including appellants.
9. **Disposed of.**

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

Jammu
10.03.2026
Neha-II

Whether the order is speaking:
Whether the order is reportable:

Yes/No.
Yes/No.