

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

WP(C) No. 432/2022
CM No. 1066/2022

Bashir Ahmed Ganai and Others

...Petitioner(s)

Through: Mr. Z. A. Qureshi, Sr. Advocate with
Mr. Anuraag Sharma, Advocate

Vs.

**Union Territory of J&K through
Commissioner/Secretary to Govt.
Revenue Deptt. and Others**

...Respondent(s)

Through: Mr. Alla ud Din Ganai, AAG
Mr. Waseem Gul, GA

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

09.07.2026

1. The seven petitioners are drawing their lineage from a common ancestor and also their habitation to village **Drayzpora, Turkawangan, Shopian.**
2. The petitioners are original inhabitants of aforesaid village as is born out from **Misal Haqiyat of 1965-66** read with **Shajra Nasab Malkaan** accompanying the writ petition.

3. On the basis of proprietorship holding in the village **Drayzpora, Turkawangan, Shopian**, the petitioners and before them their predecessors-in-interest, are said to be holding their corresponding share of **Shamlat-deh** land comprising khasra Nos. **998/716/3** and **999/176/3**.
4. Reckoning themselves to be possessing and positioned on their own proprietary **shamilat** share of land in said khasra numbers of the village, the petitioners came to be confronted with visit of Notice-cum-Order dated **06.10.2021** issued by the Tehsildar Chitragam addressing to petitioner No.7-Ghulam Nabi, the petitioner No. 6-Abdul Gani Ganai, the petitioner No. 3-Mohammad Maqbool Ganai, the petitioner No. 5-Javaid Ahmed Ganai, the petitioner No.2- Abdul Rashid Ganai and the petitioner No.1- Bashir Ahmad Ganai, in terms whereof the petitioners came to be addressed as if the encroachers of land being the State land comprising khasra No. 3 min of village

Turkawangan without identifying the extent of the land alleged to be in possession of the petitioners and also without any recital in the notice-cum-order as to what basis the petitioners were reckoned to be in occupation of the State land so as to be addressed the **Notice-cum-Order** seeking their vacation from the land in reference.

5. Although the petitioners could have resorted to appellate remedy against the aforesaid Notice-cum-Order of Tehsildar, Chitragam by preferring a revenue appeal before the Deputy Commissioner (Collector), Shopian, but nevertheless, are assailing the course of action on the part of the Tehsildar Chitragam being violative of rules of natural justice and also procedural omission, the petitioners came forward with the present writ petition instituted on **08.03.2022**, wherein this Court in terms of order dated **11.03.2022**, directed status quo to be maintained and also any action to be taken

against the petitioners then to be taken in accordance with law.

6. The Assistant Commissioner, Revenue, Shopian, as a respondent No. 2, has come forward with reply/objections in which it has come to be stated that the intended eviction exercise was only by reference to the State land falling under survey Nos. **998/176/3** and **999/176/3** recorded as **Shamilat Hasb-e-Rasab** in revenue records, whereas, the land which is identified as a State land is located in khasra Nos. **865/3, 871/3, 929/3 and 930/3** out of which some **34.02** kanals have been transferred in favour of SIDCO, the respondent No. 5 which came to be impleaded later on.
7. With the attestation of mutation No. **894**, the Assistant Commissioner, Revenue, Shopian is meaning to say that the State land comprising khasra No. **865/3** and **871/3** is in illegal possession of **Subhan, Ahad** and **Amma** sons of **Shaban Ganai** and, thus, it warranted an exercise for seeking eviction.

- 8.** What Assistant Commissioner, Revenue in his reply is stating is not bearing a remote reference directly or indirectly and/or expressly or impliedly, in the impugned Notice-cum-Order dated **06.10.2021** issued by the Tehsildar, Chitragam and this where the petitioners can be heard to have their grievance that without affording an opportunity of hearing which is the name of procedure of law, the petitioners have been tagged as an encroacher of the State land and exposed to suffer eviction notwithstanding the fact that they reckon themselves to be in possession of their own share of Shamilat-deh land in the village.
- 9.** This Court is left wondering that once this Court, in terms of order dated **11.03.2022**, had left the respondents free to take action in accordance with law, then why from order dated **11.03.2022** till date the respondents have least bothered to act by resorting to an action in accordance with law and that of course means under **Jammu and Kashmir Land Revenue**

act, Samvat-1996 and /or other enabling law/s, whereas the status quo has continued in the matter meaning thereby that petitioners are protected in terms of their respective positions and possession qua the land they claim to be their land as against the Tehsildar's claim that State land is in possession of the petitioners.

- 10.** Be that as it may, this Court is not venturing into this controversy as same is disputed question of fact and instead disposing this writ petition by quashing the **Notice-cum-Order dated 06.10.2021** issued by the Tehsildar, Chitragam holding it as an outcome of irregular and arbitrary exercise of authority in the matter seeking eviction of a person from a land without due verification and an exercise relatable therewith by first affording of an opportunity of hearing to the petitioners to explain their position viz-a-viz the land in their use and occupation be it as an owner or non-owner.
- 11.** The writ petition is accordingly, allowed, leaving the respondents in particular the respondents 1

to 4 at their own discretion to proceed in accordance with law by reference to the subject matter of the notice-cum-order hereby quashed.

12. Disposed of along with connected CM/s.

13. Mr. Z. A. Qureshi, learned Senior Advocate submits that the contempt No. **251/2022** originated on account of violation of status quo order issued in this petition needs to be adjudicated upon and, thus, same shall be retained but same is not listed today.

14. Disposal of this writ petition shall not be prejudicing the said contempt petition.

(RAHUL BHARTI)
JUDGE

SRINAGAR:
09.07.2026
Imtiyaz