

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

**WP(C) No. 432/2024
CM No. 1100/2024**

Gul Mohammad Magrey ...Petitioner(s)/Appellant(s).

Through: Mr. Rayees Ahmad, Adv.

Vs.

UT of JK and Ors. ...Respondent(s).

Through: Ms Raheela Khan, AC, to Mr. Mohsin Qadiri, Sr.
AAG.
Ms. Subrina Fayaz, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

07.09.2026

01. The petitioner claiming to be the owner of land measuring 01 Kanal and 10 Marlas situated at Saimoh Tral, has filed the instant petition, for restraining the official respondents to ensure that the petitioner is not dispossessed from any portion of land comprised under Survey No. 809 situated at Saimoh tehsil Tral and further for commanding the official respondents to ensure that in case any part of the proprietary land of the petitioner is required for construction of public road, the same shall be acquired strictly in accordance with the provision of the Right to Fair Compensation and Transparency in land Acquisition, rehabilitation and Resettlement Act, 2013. Further the petitioner has also prayed for restraining the official respondents from laying any concrete road over his proprietary land.

02. It is stated that some neighbours of the petitioner were allowed by him to use his premises for ingress or egress to their residential houses, but the same was never allowed to be used as a pathway in perpetuity by the public. In the year 2016, the petitioner was in the process of constructing the drain within his proprietary land, but on account of the interference caused by the neighbours, the petitioner filed a suit against them, which was dismissed for non-prosecution.

03. Initially the respondents 6 and 7 did not figure as respondents in the writ petition, but came to be impleaded as such, in terms of Order dated 8th September, 2025 and they have also filed response stating therein that the petitioner had filed a suit for injunction in the year 2013, claiming proprietary rights over the pathway, but the same got dismissed for non-prosecution on 2nd March, 2017. Instead of seeking restoration of the said suit, the petitioner has filed this petition. It is further stated that the grievance of the petitioner regarding the pathway stands already adjudicated by the Tehsildar vide Order dated 14th October, 2013, permitting vehicular moment, upheld by the learned Joint Financial Commissioner on 18th July, 2022 by dismissing the revision petition.

04. It is further stated that Additional Deputy Commissioner, Tral, vide Order dated 1st March, 2024,

has directed the closure of the drain. Precisely, the stand of the respondents 6 and 7 is that because of the private dispute between the petitioner and the private respondents on account of existence of pathway, this writ petition has been filed.

05. Respondent no. 3 has also filed response, stating therein that the petitioner is in peaceful possession of the land measuring 1 Kanal and 8 Marlas, the possession of which was taken over by him and properly fenced in the year 2003. The lane pre-existed the purchase of the land by the petitioner and the petitioner started raising the dispute only on account of personal reasons with some neighbours after ten years i.e., in the year 2013. It is further stated that there is no plan for any macadamization of the said land and in fact the petitioner has deliberately constructed a drain and is trying to disrupt the pedestrian and light vehicular movement.

06. Heard learned counsel for the parties and perused the record.

07. Learned counsel or the petitioner has submitted that no easementary right is vested in the neighbours including the private respondents and if they have any right, they ought to have approached the civil court.

08. The petitioner has styled this petition in such a manner so as to give an impression that his rights are being violated by the officials respondents, whereas the

fact remains that this writ petition has been filed by the petitioner on account of some dispute with regard to the existence/non-existence of pathway, regarding which, there is a long history of litigation.

09. In view of above, more particularly, in light of the categorical stand by the official respondents that there is no proposal for macadamization of the land of the petitioner, no further directions are required to be issued. The parties shall be at liberty to avail remedies as available in law for settlement of their private disputes if any.

10. Disposed of.

SRINAGAR
07.09.2026
"Shamim Dar"



(RAJNESH OSWAL)
JUDGE