

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

RP 19/2023
In[LPA 157/2020]

Mohammad Afazal Bhat & Ors.

...Petitioner(s)

Through: Mr. Azhar-ul-Amin, Sr. Advocate with
Mr. Shahid Ashraf, Advocate

Vs.

Ghulam Nabi Katoo & Others.

...Respondent(s)

Through: Mr. Shuja-ul-Haq, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE M.A. CHOWDHARY, JUDGE

ORDER

11.09.2026

Per-Sanjeev Kumar-J:

01. This is a petition filed by the petitioners seeking review of an order and judgment dated 31st January, 2023, passed by this Court in LPA No. 157 of 2020, titled "*Ghulam Nabi Katoo and Others versus Dr. Mohammad Afzal Bhat and others*". The judgment of this Court (supra) is challenged on the ground that this Court has failed to appreciate that the issue involved for determination in the appeal was not in respect of the applicability of the Limitation Act to the proceedings under the J&K Agrarian Reforms Act, 1976 ["the Act"], but the issue was whether the fresh application filed pursuant to the liberty granted by the Division Bench in terms of its order dated 20th February, 2002, passed in LPA No. 129/1997, was in continuation of the earlier application filed for resumption and, therefore, attracted no delay.

02. Before we proceed to consider the ground urged by Mr. Azhar-ul-Amin, learned senior counsel appearing for the review petitioners, we deem it appropriate to set out paragraph 4 of the

review petition, just to highlight the kind of language used against the judgment passed by this Court. Paragraph 4 reads as under:

"4. The judgment of this Hon'ble Court is, therefore, destructive of;

I. Rule of law,

II. Principle of excess jurisprudence,

III. Canons of Equity.

IV. Authoritative pronouncements of this Hon'ble Court.

V. Doctrine of Laches.

Above errors are errors which are based on clear ignorance or disregard of the provisions of law, errors apparent on the face of proceedings. Such errors are errors which are patent error and not a mere wrong decision."

03. Paragraph 4, on the face of it, reflects the lack of decency in the language used by the review petitioners.

04. Be that as it may, we ignore the same and proceed to dispose of this review petition on merits.

05. Having heard learned counsel for the parties and perused the record, it is trite law that review of a concluded judgment can be sought only in the following eventualities:

(i) When there is an error apparent on the face of the record: There is a clear and obvious mistake in law or fact apparent from the order, which does not require a long-drawn legal debate to establish.

(ii) When there is discovery of new evidence: When an important new matter or evidence, which could not have been produced by the party seeking review earlier despite doing his/her best and despite due diligence, comes to light.

(iii) For any other sufficient reason: There is some other strong reason which is similar or connected to the first two grounds so as to prevent a serious mistake or an unfair result.

06. Needless to say that review is not an occasion to re-argue the case and ask the Court to change its mind to a different opinion.

07. In the light of the aforesaid parameters, when we examine the case set up by the petitioners, we find that the ground urged by the petitioners for seeking review does not fit into any of the categories aforementioned.

08. Without elaborating upon the facts leading to the filing of LPA No. 157/2020, which was disposed of by this Court in terms of the judgment sought to be reviewed, suffice it to say that the land, subject matter of the appeal, was not under the personal cultivation of its owners in Kharief 1971 and, therefore, by operation of Section 4 of the Act, the same vested in the State in terms of Mutation No. 1375, dated 01.11.1981. The ownership rights of the owner, late Shri Ghulam Rasool Bhat, the predecessor-in-interest of the respondents, stood extinguished and the tillers, respondents herein, were recorded as prospective owners.

09. The ex-owner, late Shri Ghulam Rasool Bhat, filed an application for resumption of land under Section 7 of the Act before the Naib Tehsildar, which was subsequently transferred to the Tehsildar concerned. By order dated 04.01.1982, the Tehsildar rejected the resumption application on the following grounds:

- (i) the application was not presented before the appropriate forum; and
- (ii) the application was not signed by the ex-owner.

10. The order of the Tehsildar, dated 4th January, 1982, was assailed by late Shri Ghulam Rasool Bhat, the ex-owner and predecessor-in-interest of the respondents, before the Commissioner, Agrarian Reforms, Srinagar, who, by order dated 14.05.1986, dismissed the appeal. late Shri Ghulam Rasool Bhat, the ex-owner, challenged the order of the Commissioner, Agrarian Reforms, Srinagar before the J&K Special Tribunal [“the Tribunal”] through a revision petition, which too met the same fate.

11. Feeling aggrieved and dissatisfied with the judgment of the Tribunal, the ex-owner filed OWP No. 493/2007 before the

learned Single Judge of this Court. The writ petition was dismissed by the writ Court. Feeling aggrieved, the ex-owner approached this Court by way of LPA No. 129/1997. While the LPA was pending consideration, the review petitioners sought permission to withdraw the LPA with liberty to file a fresh application for resumption before the competent forum. The Division Bench, by its order dated 20.02.2002, dismissed the writ petition as withdrawn, with liberty to the review petitioners to file a fresh application for resumption before the competent forum, if the law so permitted.

12. It seems that, in pursuance of the liberty granted by the Division Bench, a fresh application was filed by the ex-landlord (the review petitioners herein) under Section 7 of the Act before the Tehsildar. The said application was allowed by the Tehsildar by his order dated 26.06.2002, and the ex-landlord was held entitled to resume land measuring 3 kanals and 4 marlas. On appeal, the Commissioner, Agrarian Reforms, J&K upheld the order of the Tehsildar and dismissed the appeal filed by the tenants (respondents herein). The respondents filed a revision petition before the J&K Special Tribunal. The revision petition was allowed by the order dated 25.06.2007, holding that the application submitted by the ex-landlord for resumption under Section 7 of the Act was barred by limitation. The order of the Commissioner, as also Resumption Mutation No. 1409, dated 26.06.2002, attested by the Tehsildar, were set aside.

13. The matter was brought by the ex-landlord before this Court by way of Writ Petition No. 493/2007. The only question that was raised before this Court was whether the provisions of the Limitation Act, Svt. 1995, were applicable to the proceedings under the Act or not. The writ Court concluded that the provisions of the Limitation Act, Svt. 1995, were applicable to all the proceedings under the Act, and, therefore, the order of the J&K Special Tribunal, Srinagar holding that the Tehsildar could not

have entertained a time-barred application under Section 7(5) filed by the ex-owner was not the correct view in law. Accordingly, the writ Court set aside the judgment of the J&K Special Tribunal, Srinagar dated 26.06.2007, the order of Financial Commissioner, Revenue/Commissioner, Agrarian Reforms, J&K, dated 01.07.2003 and mutation dated 26.06.2002 attested by Tehsildar, Srinagar under Section 7 of the Act. The Tehsildar Srinagar, was directed to first decide the application preferred by the ex-owner under Section 5 of the Limitation Act by passing a speaking order and after affording an opportunity of hearing to the parties.

14. The judgment of the writ Court, dated 11.10.2018, passed in OWP No. 493/2007, was assailed by the respondents herein in LPA No. 157/2020. The only issue that was raised before us in the appeal was whether the provisions of the Limitation Act would apply to the proceedings under the Act or not. This Court, after considering the rival contentions and the relevant provisions of law, including the case law on the subject, came to the conclusion that, while the appellate authority, i.e., Commissioner, Agrarian Reforms, J&K hearing an appeal under Section 19 of the Act, was empowered to condone the delay under Section 5 of the Limitation Act, for, the provisions of the Limitation Act were specifically made applicable to the appeals under the Act, however, neither Section 5 nor any other provisions of the Limitation Act would be attracted to the proceedings before the Revenue Officer under Section 7 of the Act. So, it was on this basis that this Court allowed the appeal and set aside the judgment of the writ Court.

15. It was never the case of the review petitioners that the fresh application was a continuation of the earlier application filed by the ex-landlord. Rather, the review petitioners had all along contended that though their fresh application for resumption, filed pursuant to the liberty granted by the Division Bench by order dated 20.02.2002, was barred by limitation, yet they were entitled

to condonation of delay in the light of the provisions of Section 5 of the Limitation Act.

16. The writ Court, while passing judgment dated 11.10.2018 in OWP No. 493/2007, filed by the review petitioners, set aside all the orders, i.e., the order of J&K Special Tribunal, Srinagar dated 26.06.2007, the order of Financial Commissioner, Revenue/Commissioner, Agrarian Reforms, J&K, dated 01.07.2003 and mutation dated 26.06.2002 attested by Tehsildar, Srinagar under Section 7 of the Act and directed the Tehsildar, Srinagar to decide the application filed by the ex-owner under Section 5 of the Limitation Act by passing a speaking order. This was the judgment earned by the review petitioners from the writ Court.

17. It is thus beyond any pale of discussion that the review petitioners have themselves acknowledged that their fresh application for resumption, suffered from huge delay, and, therefore, they had moved an application under Section 5 of the Limitation Act for seeking condonation. In all the forums, the only dispute between the parties was whether the review petitioners were entitled to seek condonation of delay by having recourse to Section 5 of the Limitation Act or not.

18. The Division Bench of this Court, in terms of the judgment sought to be reviewed, conclusively determined the issue and came to the conclusion that Section 5 of the Limitation Act was not applicable to the applications for resumption filed under Section 7 of the Act, and, therefore, the Tehsildar, Srinagar had no jurisdiction to condone the delay. Admittedly, the fresh application filed by the review petitioners was much beyond a period of one year and, therefore, it was barred by limitation.

19. That apart, the novel argument raised by learned senior counsel appearing for the review petitioners that the fresh application should be treated as a continuation of the earlier application, which this Court had found not to be in consonance with law in the earlier round, is grossly misconceived and

deserves to be noticed for rejection only. The earlier application for resumption made by the ex-owner was found defective on two counts;-

- (i), that it was not signed by the ex-owner, and
- (ii), that it was not filed before a competent authority.

20. In short, the said application was found by all the forums under the J&K Agrarian Reforms Act, including this Court, to be an application non-est in the eye of law. It is, therefore, preposterous to argue that the fresh application, for which liberty was given by the Division Bench, should be treated as a continuation of that non-est application.

21. This Court, while permitting the withdrawal of the appeal, clearly provided that liberty was given to the review petitioners only to file a fresh application, that too if permissible in law.

22. Viewed from any angle, we find absolutely no merit in this review petition, and the same is, accordingly, **dismissed**.

(M. A. CHOWDHARY)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

11.09.2026

"Mir Arif"

- (i) Whether the order is reportable? Yes/No.
- (ii) Whether the order is speaking? Yes/No.