

S. No. 9
Regular

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP No. 1032/2016

CM No. (3112/2023)

c/w

i) OWP No. 994/2015

Zahoor Ahmad Shah

...Petitioner/Appellant(s)

Through: Mr. Shariq Reyaz Jan, Advocate

Vs.

State of J&K And Ors.

...Respondent(s)

Through: Mr. M. M. Dar, Advocate with
Ms. Saiqa Jan, Advocate and
Mr. Zaffar Mehdi, Advocate
Mr. Jahangir Dar, GA

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

09.09.2026

OWP No. 994/2015

1. Heard.
2. The petitioner is aggrieved of order dated 11.05.2015 passed by respondent No. 3, the Deputy Commissioner, Budgam, whereby a team of officers was once again constituted for carrying out demarcation of the land in question. The case set up by the petitioner is that respondent No. 3, by misusing his official position and with a view to harassing the petitioner, caused a demarcation report to be prepared in a manner prejudicial to the petitioner's interests.

3. The respondents, on the other hand, contend that there exists a bona fide dispute between the parties, as, according to them, the petitioner has, from time to time, encroached upon their land. It is submitted that the said circumstances necessitated demarcation of the land. It is further alleged that when the Revenue Authorities proceeded to conduct the demarcation, the petitioner, with the assistance of certain unlawful elements, created obstruction and commotion, which ultimately led to the registration of an FIR.
4. During the pendency of the present proceedings, this Court, vide order dated 15.05.2025, directed respondent No. 3 to constitute a fresh team of Revenue Officials, headed by a senior officer of the Revenue Department, for carrying out demarcation of land measuring 29 kanals situated at Village Sozeith Gori Pora, Tehsil Narbal, District Budgam, falling under Khasra Nos. 1050/113, 70 min, 115 min, 724/62 min, 819/113 min, 1060/68, 112 min, 1058/818, 754/114 and 115 min, as also the remaining land referred to in order dated 11.05.2015.
5. Pursuant thereto, a demarcation report has been submitted before this Court. The report reveals that the Revenue Authorities examined the position on spot with reference to Khasra Nos. 62 min, 68, 69, 70, 112, 113, 115, 116 min and 117. Upon such exercise, it was found that the extent of land reflected in the ownership/possession columns of the revenue record does not, in all cases, correspond with the actual physical possession on spot. In certain khasra numbers, the recorded owners were found to be in possession of an area lesser than that reflected in the revenue record, whereas, in certain other khasra numbers, they were found to be in possession of land in excess of the area recorded in their favour.

6. The petitioner has filed objections to the aforesaid demarcation report, contending that the demarcation has not been carried out in a proper and lawful manner and that the report does not reflect the true factual position existing on spot.
7. On perusal of the material placed on record, it transpires that the present demarcation report is the fourth such report obtained in succession during the course of proceedings initiated by the parties. The material on record further reveals that the petitioner, Zahoor Ahmad Shah (Watali), is reflected in the revenue record to be in possession of land measuring 29 kanals 6 marlas and 60 sq. ft., however, according to the demarcation conducted on spot, he is found to be in physical possession of 22 kanals and 11 marlas. Likewise, in respect of Khasra No. 68, the recorded possession of the petitioner is stated to be 16 kanals and 01 marlas, whereas upon physical verification he has been found to be in possession of 20 kanals and 11 marlas. Insofar as Khasra No. 69 is concerned, the recorded possession corresponds with the possession found on spot and, therefore, no dispute appears to subsist with respect thereto.
8. In respect of Khasra No. 70, the petitioner's recorded possession is stated to be 2 kanals and 16 marlas, whereas on spot he has been found to be in possession of 11 kanals and 7 marlas. Similar variations have been noticed with respect to certain other khasra numbers as well. Thus, while in some khasra numbers the petitioner appears to be in possession of land in excess of the area reflected in the revenue record, in others his physical possession is deficient in comparison to the recorded area. The controversy, therefore, essentially pertains to the identity, extent and physical possession of the land comprised in the various khasra numbers and the alleged discrepancy between the possession existing on spot and

that reflected in the revenue record. Determination of such issues would necessarily require adjudication of seriously disputed questions of fact and appreciation of evidence.

9. During the course of arguments, it was also brought to the notice of this Court that a civil suit concerning the subject matter is already pending. The petitioner, however, contends that the said civil suit has not been instituted against him and further alleges that, under the guise of the demarcation report, the respondents are attempting to encroach upon his land. Be that as it may, the rival claims clearly demonstrate that the parties are asserting competing rights and possession in respect of land comprised in various khasra numbers.
10. In view of the nature of the controversy and the disputed questions of fact involved, this Court, while exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, cannot undertake an adjudicatory exercise requiring determination of title, identification of boundaries and adjudication of competing claims regarding physical possession on the basis of disputed evidence. The parties have an equally efficacious remedy before the competent forum for establishment and enforcement of their respective rights, including their claims relating to title and possession. The extraordinary writ jurisdiction of this Court cannot be invoked for adjudication of what is, in substance, a private dispute concerning possession and competing claims over immovable property. In view of the aforesaid discussion, this Court finds no ground to exercise its extraordinary jurisdiction under Article 226 of the Constitution of India. The writ petition, being devoid of merit, is accordingly **dismissed**. Interim direction(s), if any, operating as on date shall stand vacated.

11. It is, however, made clear that the parties shall be at liberty to pursue such remedies as may be available to them in accordance with law before the competent forum. Any right or claim arising out of or relating to the land in question, including questions of title, possession, boundaries or the consequences flowing from the demarcation proceedings, shall be determined by the competent forum in accordance with law. Nothing observed herein shall be construed as an expression of opinion on the merits of the respective claims of the parties, and the competent forum shall determine the same independently, uninfluenced by any observation made in the present order.

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1. Heard.
2. Mr. Jahangir Dar, GA is directed to place on record the status report of the case FIR No. 95/2009 of Police Station Parimpora by or before next date of hearing.
3. List for continuation on 19.09.2026.

(SANJAY PARIHAR)
JUDGE

SRINAGAR:

09.09.2026

Akhil Dev