

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

WP(C) 1599/2021 CM 5388/2021

BASHIR AHMAD BHAT

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

Through: Mr. Rizwan ul Zaman, Advocate

Vs.

J AND K SPECIAL TRIBUNAL AND ORS.

...Respondent(s)

Through: Mr. Alla ud din Ganai, AAG
Mr. Ilyas Nazir Laway, GA

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

09.07.2026

1. By this petition, petitioner herein has challenged the order dated 25.09.2017 passed by learned Additional Deputy Commissioner, Kulgam with powers of Commissioner Agrarian Reforms, Kulgam, in case titled "*Ali Bhat & Ors. Vs. Bashir Ahmad Bhat*", as well as order dated 29.07.2021 passed by the Jammu and Kashmir Special Tribunal, Srinagar in case titled "*Bashir Ahmad Bhat Vs. Abdul Rashid Bhat & Ors.*"

Factual Matrix:

2. It is stated by the petitioner that mutation Nos. 853 & 929 dated 07.05.1995 and 17.12.1999 respectively had been attested amongst others in favour of the petitioner vis-à-vis the portion of land in his possession against which two appeals were filed belatedly by one Ali Bhat, son of Ismail Bhat on 28.06.2004 and 03.10.2005. Along with the said belated appeals, applications for condonation of delay were also filed. The said applications were decided by the respondent No. 2 in terms of order dated 18.04.2006 without considering the objections of the petitioner.
3. Subsequently the appellant- Ali Bhat, during the pendency of the two appeals died and the application for bringing on record legal heirs was filed and decided by respondent No. 2 vide order dated 22.12.2009 without considering the objections filed by the petitioner.
4. Eventually, respondent No. 2 in terms of order dated 25.09.2017 decided both the appeals together and set aside the mutations 853 and 929 dated

07.05.1995 and 17.12.1999 respectively. Respondent No. 2 also directed the Tehsildar, D.H Pora, to attest fresh mutation in favour of the legal heirs of Ali Bhat as per Shariat Act, 2007, after conducting denovo enquiry.

5. Aggrieved of the order, the petitioner filed revision petition before the Jammu & Kashmir Special Tribunal, Srinagar, which after consideration, was dismissed in terms of order dated 29.07.2021.
6. The petitioner has challenged the order dated 25.09.2017 passed by learned Additional Deputy Commissioner, Kulgam with powers of Commissioner Agrarian Reforms, Kulgam and the order dated 29.07.2021 passed by the Jammu and Kashmir Special Tribunal, Srinagar [herein after to be referred as “impugned orders”] before this Court, *inter alia*, on the ground that order dated 18.04.2006 is bad in law, as by virtue of the said order, the application for condonation of delay has been allowed in violation of the rules governing the subject; that the mutations have been illegally set-aside after a gap of 11 years without any sufficient cause; that the legal heirs of Ali Bhat (appellant), who died on 17.06.2006, were brought on record after a period of seven years; that the orders have been passed on surmises and conjectures, which is against the mandate of law laid down by this Court in case titled “*Kartar Chand & Ors. Vs. J&K Special Tribunal & Anr.*”, reported as 2016(1) JKJ HC753; that the observation of the Special Tribunal that the order impugned before it was an interlocutory order, therefore not amenable to the revisional jurisdiction is perverse because the order directing for holding an enquiry and for passing fresh orders cannot be termed as interlocutory order as the appeal stands finally disposed of by such order; that the orders have been passed against the enquiry report, which was conducted during the pendency of the appeals, wherein, the possession of the petitioner with respect to the land measuring 2 Kanals under survey No. 378 min and conversion of same into orchard had been established.
7. Upon notice, respondents have appeared and respondent No. 4 to 8 have also filed their reply.
8. Heard learned counsel for the parties, considered the submission and perused the record made available.

9. It appears that the learned Special Tribunal while dismissing the revision petition vide order dated 29.07.2021 has fallen in error by holding that the order under challenge before it was an interlocutory order. The contention of the learned counsel for the petitioner in that respect is justified that the order passed by the Additional Deputy Commissioner with powers of the Commissioner Agrarian Reforms was not an interlocutory order, but the final order by virtue of which the appeals pending before it were finally disposed of. The order dated 29.07.2021 on the said sole ground, appears to be bad in law.
10. The impugned order dated 25.09.2017 passed by the Additional Deputy Commissioner, Kulgam also appears to be not in consonance with law, insofar as it directs the Tehsildar D.H. Pora, to attest fresh mutation in favour of the legal heirs of Ali Bhat in terms of Shariat Act, 2007, as the Additional Deputy Commissioner concerned in the very same order directs for conducting a denovo enquiry in respect of the mutations that he has set aside i.e., Mutation Nos. 853 and 929 dated 07.05.1995 and 17.12.1999 respectively. The Additional Deputy Commissioner Kulgam has contradicted himself while passing two contrast directions for attestation of fresh mutations in favour of legal heirs of Ali Bhat and for conducting a denovo enquiry in respect thereof.
11. Although, the Additional Deputy Commissioner, Kulgam has very specifically directed for fresh attestation of mutation after conducting a denovo enquiry, however, the order is vague as it does not provide for a condition that fresh mutation shall be attested in favour of the legal heirs of Ali Bhat only if they turn out to be actual owners of the land in question, during the denovo enquiry.
12. Having said that the instant writ petition is disposed of by setting aside the order of the J&K Special Tribunal dated 29.07.2021. The order dated 25.09.2017 passed by the Additional Deputy Commissioner, Kulgam is upheld, only to the extent it directs the Tehsildar D.H. Pora to conduct a denovo enquiry in respect of the mutations in question. The Tehsildar D.H. Pora is directed to proceed ahead with the denovo enquiry as directed by the Additional Deputy Commissioner, Kulgam in terms of order dated 25.09.2017 and any further course shall be subject to such

denovo enquiry report. Till the time the denovo enquiry is conducted and completed, the parties to the lis are directed to maintain status quo with regard to the land in dispute.

13.Disposed of on the above lines.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:

09.07.2026

“Adil Ismail”

