

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP No.1399/2015
IA/1/2015
IA/1/2018
CM No.7494/2021
CM No.6601/2021
CM No.7487/2021

PARAMJIT SINGH AND ANOHTER

... Petitioner(s)

Through: Ms. Mehjabeena, Advocate vice
Mr. A. M. Dar, Sr. Advocate.

VERSUS

STATE OF J&K AND OTHERS

...Respondent(s)

Through: Mr. Ilyas Nazir Laway, GA
Mr. Rizwan ul Zaman, Advocate, for R-5.

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER
21.07.2026

1. The institution of this writ petition came to take place on **10.08.2015** with two petitioners namely Paramjit Singh and Rajinder Singh, sons of Bachan Singh, coming forward with a cause of action emanating from issuance of order dated **22.06.2015** from the end of Sub Divisional Magistrate (SDM), Beerwah thereby directing a course of action for the eviction the two petitioners from the land measuring **9 kanals** in Survey **No's. 901/325, 184 min and 42 min** estate Ichehama,

standing in the ownership of respondent No.5- Ajeet Singh who is the registered migrant entitled to the effects of J&K Migrant Immovable Property (Preservation Protection and Restraint on Distress Sales) Act 1997.

2. The impugned order **No. SDM/Brw/Estt/15/234-37** dated **22.06.2015** of the Sub Divisional Magistrate, Beerwah District Budgam comes up with the recital about the confirmed ownership status of respondent No.5- Ajeet Singh.

3. The impugned order bears a recital about the indulgence of the Joint Agrarian Reforms Commissioner Kashmir, Srinagar in terms of his order dated **30.06.1989** and of Jammu and Kashmir Special Tribunal order dated **02.12.1991** which came to restore the ownership status of the respondent No.5 vis-à-vis the land in question rendering the two petitioners as non owner qua said very property and, thus, being in unauthorized occupation of said proprietary land of respondent No.5- Ajeet Singh.

4. The two petitioners herein have challenged the order of the Sub Divisional Magistrate, Beerwah on the ground that they were condemned unheard.

5. From a bare perusal of the recital in the impugned order **No.SDM/Brw/Estt/15/234-37** dated **22.06.2015**, this Court cannot escape from the fact that the Sub Divisional Magistrate, Beerwah District Budgam had not put the two petitioners to notice for appearance and explaining their stand point vis-à-vis the application of the respondent No.5- Ajeet Singh whereby eviction of the two petitioners from the land of the respondent No.5- Ajeet Singh was being solicited by reference to J&K Migrant Immovable Property Act, 1997.

6. This writ petition has remained on docket of this court for the last more than ten years and has brought no productive end, be it to the petitioners or to the respondent No.5.

7. This Court, therefore, deems it appropriate to dispose of this writ petition by setting aside order dated **22.06.2015** of the Sub Divisional Magistrate, Beerwah, District Budgam not on its merit but on the point of non compliance of the rules of natural justice, with a direction unto the District Magistrate, Budgam to call for the record of the case from the Sub Divisional Magistrate, Beerwah, District Budgam by reference to the application

of the respondent No.5- Ajeet Singh and upon affording an opportunity of hearing to both the petitioners, dispose of said application of the respondent No.5- Ajeet Singh on merits and in accordance with the law which is meant to be invoked by the respondent No.5 for purported eviction of the petitioners from the land claimed by the respondent No.5 to be vested in terms of ownership.

8. The legal heirs of petitioner No.1, the petitioner No.2 as well as respondent No.5- Ajeet Singh are directed to appear before the District Magistrate, Budgam on **19th of August 2026** whereupon the District Magistrate, Budgam shall initiate the proceedings on the File by summoning the requisite File from the Sub Divisional Magistrate, Beerwah District Budgam and dispose of the matter within a period of next six months, legal representatives of petitioner no.1 and the petitioner No.2 himself.

9. Disposed of.

(RAHUL BHARTI)
JUDGE

SRINAGAR
21.07.2026
"Opinder"