

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

WP(C) No. 1909/2020
CM No. 5830/2020

Mohammad Ibrain Thokur and
Others ...Appellant(s)/Petitioner(s)

Through: Mr. S. H. Thakur, Advocate with
Mr. Mustaqeem H. Thakur, Advocate

Vs.

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

Through: Mr. Alla Ud Din Ganai, AAG

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
06.08.2026

1. The cause of action for nine petitioners to join this case to come up with the present writ petition is a one page **order No. DCS/SQ/2020/968-73** dated **02.11.2020** passed by Assistant Commissioner (Revenue), Shopian in the office of Deputy Commissioner, Shopian, whereby the land comprising **khasra No.223** of village **Padderpora** was meant to be reserved for the construction of a **Play Field** to be at the disposal of the Rural Development

Department and for that purpose Tehsildar, Hermain and Block Development Officer, Hermain were directed to proceed on spot and fence the land and erect the sign board showing thereby that the land is meant for play field.

2. For the facility of reference, the content of impugned order above referred is reproduce hereunder: -

“...Whereas, an order was issued by this office vide No. DCS/SQ/19-20/1066-69 dated 06.11.2019 wherein Tehsildar Hermain was directed to take appropriate necessary action under section 145 of Cr.P.C on the land in question till the disposal of the case:

Whereas, Tehsildar Hermain attached the suit property and placed it on superdnama with Numberdar Deh.

The directions issued vide above order and subsequent order issued by Tehsildar Hermain are hereby withdrawn and the Tehsildar Hermain is directed to proceed on spot and handover the possession of the land falling under survey No.223 of village Padderpora which has been proposed for construction of Play Field, to the Rural Development Department for further development of the land. The Tehsildar Hermain and Block Development Officer Hermain will proceed on spot jointly on 03.11.2020 and fence the land and erect the sign board showing therein that the land is meant for play field.”

so as to self-state contents and purport.

3. The petitioners reckoned that under the garb of said order it is none else than the petitioners who claim to be in possession of **4.4 kanal** of land of said khasra No. **223** which is reckoned

by them to be shamilat land available at their respective disposal.

4. The petitioners in their writ petition are, thus, seeking quashment of this order of the Assistant Commissioner (Revenue), Shopian and also seeking mandamus unto to the respondents not to fence the land relatable to the petitioners measuring **2.13 kanal** comprising in khasra No. **223**.

5. This writ petition came to be answered by the respondent No.4 i.e., Deputy Commissioner, Shopian by a reply submitted on **08.12.2021** stating therein upon a detailed report solicited from Tehsildar Hermain that khasra No. **223** of village **Padderpora** is total measuring **283 kanals 1 marla** and said khasra number is further subdivided for the purpose of reflecting **241.14 kanals** as **Dafa-5** land and rest **41.7 kanals** as **Dafa-4** land but it is difficult to identify as to which patch of land is Dafa-5 and which is Dafa-4.

6. Once this Court finds the Deputy Commissioner, Shopian himself at loss despite having at his disposal the entire district revenue authority and the record at his disposal, then wherefrom and on what basis the Assistant Commissioner (Revenue), Shopian engaged himself in an exercise related to passing of impugned **order No. DCS/SQ/2020/968-73 dated 02.11.2020** is best known to the Assistant Commissioner (Revenue), Shopian at the time as the impugned order does not bear any recital to said effect as to the context in which the Assistant Commissioner (Revenue), Shopian was invited to engage his authority to come up with a direction as given in the impugned order.

7. Even if this Court were to accord legitimacy to the exercise at the end of Assistant Commissioner (Revenue), Shopian in coming with the order No. **DCS/SQ/2020/968-73 dated 02.11.2020**, still the Assistant Labour Commissioner (Revenue) Shopian ought to have

laboured himself more in coming up with a detailed order as to who were the persons who were complaining with respect to khasra No. **223** of village Padderpora and who were the persons against whom the complaint was addressed and in what context and further whether the complainant and persons' complained against were heard and/ or afforded an opportunity of representing the respective case and claim.

8. All these essential factual facets to inform an order which has the consequences of legal nature and effect are missing from the impugned order which renders the very exercise on the part of Assistant Commissioner (Revenue), Shopian amenable to questioned and rightly so is being question by the petitioners through medium of this writ petition under **article 226** of the Constitution of India.

9. If this writ petition would have been filed at this moment, this Court would have asked the petitioners to lead themselves to remedy of

appeal before the **District Collector/Divisional Commissioner under Land Revenue Act Samvat, 1996** or the revisional remedy before the Financial Commissioner (Revenue) J&K, but since the writ petition has remained pending on the docket of this Court since **December, 2020** and right from the first order dated **04.12.2020**, the impugned order came to be put stay, this court cannot now ask the petitioners to avail appellate/revisional remedy under **J&K Land Revenue Act Samvat, 1996** and therefore, deems it appropriate to accord disposal to this writ petition by setting aside **Order No. DCS/SQ/2020/968-73 dated 02.11.2020** passed by Assistant Commissioner (Revenue), Shopian, leaving it free for the Deputy Commissioner, Shopian to consider at his end as to whether any legal course of action relatable to khasra **No.223** of village **Padderpora** is warranted, be it in the context in which the Assistant Commissioner (Revenue) Shopian

intended it through the medium of his
impugned order or otherwise.

10. It goes without saying that in case the Deputy
Commissioner/Collector, Shopian or for that
matter any revenue officer under his control or
sub-ordinate to him would undertake any such
exercise, then the persons who would be the
effected persons are entitled to be heard by their
participation in a detailed factual enquiry.

11. Disposed of along with connected CM.

(RAHUL BHARTI)
JUDGE

Srinagar
06.08.2026
"Imtiyaz"