

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

WP(C) No. 1877/2021

Mohammad Faheem Baba

..... Appellant/petitioner(s)

Through: -

Mr. M. S. Reshi, Advocate

V/S

UT of J&K and Ors.

..... Respondent(s)

Through: -

Mr. M. A. Makhdoomi, Advocate

CORAM:

HON'BLE MS JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

(ORDER)

13.07.2026

CM No. 7410/2024

01. By this application, applicant- Mushtaq Ahmad Tanki S/o Late Mohammad Sidiq Tanki R/o A/P Brane Nishat, Srinagar is seeking permission to implead him as respondent in the instant petition.
02. On the set of facts and grounds urged coupled with the submissions made at Bar, the instant application is allowed and the above-named applicant is impleaded as proforma respondent No. 9.
03. Registry is directed to update the cause title of the petition.
03. CM disposed of.

WP(C) No. 1877/2021

01. By this petition, petitioner has challenged the order dated 21.08.2021, issued by respondent No. 2, whereby the

Divisional Commissioner, Kashmir on the application of management of Masjid Sharief Dabagh Mohalla, seeking demarcation of land falling under Survey No. 1703 and 1704 situated at Mohalla Dabagh Jamallata Mouza Chattabal, Tehsil Srinagar, South in terms of Section 94 of J&K Land Revenue Act, has directed Tehsildar, South Srinagar to remove the encroachment made at Survey Nos., 1703 and 1704. It is stated by the learned counsel for the parties that without seeking opportunity of being heard to the petitioners as well as proforma respondent No. 9, the impugned order has been passed. He further submits that no encroachment has been made by the petitioners as well as by the proforma respondent in respect of land falling under survey No. 1703 and 1704.

02. *Per contra*, reply stands filed by the respondents, it is stated therein, that the Management of Masjid Sharief Dabagh Mohalla approached the respondent No. 2, for retrieval of the land, as such, vide communication dated 07.10.2020, Registrar Srinagar was directed to verify and demarcate the said land. The Registrar in compliance to the order dated 07.10.2020, directed the Tehsildar for verification of the said land. Respondent No. 4, Tehsildar, Srinagar in pursuance to the verification submitted a detailed report to the Registrar on 12.01.2020.

03. On 16.02.2021, Registrar Srinagar, forwarded the same to respondent No. 2, on the basis of which, the impugned order dated 21.08.2021, has been passed with a direction to respondent No. 4, for removal of the encroachment. It is stated that in terms of the report of Tehsildar, South Srinagar dated 14.12.2023, the land measuring 02 Kanals and 16 Marlas under Khasra No. 1703 and 1704 is recorded as Abadi Deh in proprietary Column (Khana Milkiyat) and in tenancy Column (Khana Kashit), has been shown/recorded as Maqbooza Masjid Sharief Babagh Mohalla and Maqbooza Mohammad Azam and ors., however, while carrying the demarcation by the team constituted for the purpose, the Survey No. 1703 comprises of 01 Kanal and 12 Marlas out of which land measuring 15 Marlas is under the possession of Mohammad Azim and Ors., and rest of the land measuring 17 Marlas is under the possession of petitioner. Similarly, the Survey No. 1704, comprises of 01 Kanal and 04 Marlas of land out of which land measuring 12 Marlas is under the possession of Mohammad Azam and ors. and rest of the land measuring 12 Marlas is under the possession of the petitioner.

04. Learned counsel for the parties submit that the demarcation has been done without associating the petitioners.
05. In view of above, the instant petition is disposed of by setting aside the impugned order dated 21.08.2021, passed by the respondent No. 2, with further direction to respondent No. 2, to constitute a committee of officers to conduct fresh demarcation thereby associating the petitioners as well as proforma respondent No. 9. Respondent No. 2, is directed to conclude the exercise of demarcation within a period of one month from the date of passing of this order. Till the demarcation is concluded, the parties are directed to maintain status quo on spot qua the property in question.
06. Disposed of along with connected CM(s).

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR
13.07.2026
"Mohammad Yasin Dar"