

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

LPA No. 182/2025

Reserved on: 18.04.2026

Pronounced on: 23.04.2026

Uploaded on: 23.04.2026

Whether the operative part or full
judgment is pronounced: *Full*

1. **Mohammad Hassan, Aged 69 years**
S/o Ghulam Hussain
2. **Mohammad Hussain Aged 67 years**
S/o Musa
3. **Mohammad Hassan Aged 52 Years**
S/o Issa Ali
4. **Mohammad Ali, Aged 74 years,**
S/o Ghulam Raza
5. **Mohammad Ibrahim, Aged 52 years,**
S/o Mohammad.
6. **Ghulam Aged 42 Years**
S/o Ghulam Hyder
7. **Mohammad Ibrahim, Aged 56 Years**
S/o Ghulam Rahim
8. **Haji Mohammad Moosa, Aged 67 years**
S/o Ghulam Mohammad
9. **Nazir, Aged 35 years**
S/o Mohammad Ali
10. **Ghulam Ali, Aged 37 years**
S/o Raza
11. **Mohammad Isaac, Aged 67 years**
S/o Ghulam Mohammad
12. **Hadi Ali, Aged 68 years,**
S/o Akhoon Mohammad
13. **Mohammad Ali, Aged 60 years**
14. **Mohammad Ismail, Aged 54 years**
S/o Mohammad Ibrahim
Appellants 11 to 14 Residents of Village
Sharchay Estate Chulichalan, Tehsil and
District Kargil

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

Through: Mr R. A. Jan, Sr. Adv. with
Mr. Ubaid Mir, Adv.

Vs.

- 1. Shakoor Ali, S/o Abdul Rahim.**
- 2. Mohammad Ishaq S/o Raza.**
- 3. Mohammad Hussain, S/o Haji Abdullah.**
- 4. Mohammad Ismail S/o Ghulam Mohammad**
- 5. Ishaq S/o Raza**
- 6. Mohammad Ishaq (now dead) Through L.Rs.**
 - (i) Rozi Bi, aged 65 years, W/o Mohammad Ishaq**
 - (ii) Mehdi, aged 35 years, S/of Mohammad Ishaq**
 - (iii) Mohammad Sadiq, aged 30 years, S/o Mohammad Ishaq**
- 7. Haji Hyder Ali, (now dead) Through L.Rs.**
 - i) Marzia, aged 50 years, W/o Late Haji Hyder Ali,**
 - ii) Askaree, aged 27 years, S/o Late Haji Hyder Ali**
 - iii) Showkat Ali, aged 15 years, S/o Late Haji Hyder Ali**

All residents of Cholicchalan District Kargil
- 8. Financial Commissioner (Rev) J&K, Srinagar.**
- 9. Commissioner Survey & Land Records (Ex-Officio Settlement Commissioner) J&K Srinagar.**
- 10. Deputy Commissioner, Kargil.**
- 11. Additional Deputy Commissioner Kargil.**
- 12. Assistant Commissioner, Kargil.**
- 13. Tehsildar Kargil**
- 14. Naib Tehsildar Kargil**

...Respondent(s)

Through: Ms. Rehana Qayoom, Adv. vice
Mr Tahir Majid Shamsi, DSGI
Mr. Babar Bilal Malik, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

Per Sanjeev Kumar: J

1. This intra-court appeal by the appellants arises from an order and judgement dated 31st of May 2025 passed by the learned Single Judge of

this court, [“the Writ Court”] in OWP No. 242/2018, titled Shakoor Ali and Ors. vs. Financial Commissioner and Ors. whereby the Writ Court has allowed the writ petition of the respondents 1 to 7 [“the contesting respondents”], passed in a revision petition dated 28th of November 2017, titled Villagers/Zamindars of Choolichan, Kargil vs. Mohammad Hassan and Ors.

2. Impugned judgement passed by the Writ Court is assailed by the appellants on multiple grounds. However, before we advert to the grounds of challenge urged by Mr. Reyaz Jan, learned senior counsel appearing for the appellants, it would be worthwhile to state few facts as are germane to the disposal of this instant appeal.

3. The appellants herein, namely Mohammad Hassan and others, are residents of village Silmoon, and village Surchey, of revenue Estate Chulichan, Tehsil and District Kargil, whereas the contesting respondents are all residents of village Choolichan, Tehsil and District Kargil. There appears to be a dispute with regard to a State land adjoining to these two villages.

4. The subject land is a State land measuring approximately 11,000 Kanals, commonly known as Musber Thang, and Thunder Thang. The appellants, apprehending that this big chunk of land may be encroached upon by the contesting respondents, approached the Commissioner, Survey and Land Records, (ex-officio Settlement Commissioner), J&K, Srinagar, by way of a revision petition filed in terms of Section 15 of the J&K Land Revenue Act, Svt. 1996, [“the Act”].

5. The short grievance projected by the appellants before the Settlement Commissioner was that adjacent to their Estate Chulichan, there is a big chunk of State land measuring approximately 11,000 Kanals, which is facing threat of encroachment by the people of neighbouring villages. The residents of the adjoining villages were, however, not made party-respondents. The Settlement Commissioner took cognizance of the revision petition filed by the appellants and sent for a report from the subordinate revenue agency. The Tehsildar in his report stated that Estate Chulichan comprises of six Mohallas, namely Chulichan, Sharchey, Musber, Wachera, Chachyhang & Mamak. Some of the Mohallas are presently under occupation of Pakistan

and that there is a big chunk of State land measuring approximately 11000 kanals. Taking into consideration the report submitted by the field revenue agencies, the Settlement Commissioner, came to the conclusion that a big chunk of State land needs to be protected against encroachment. Consequently, vide order dated 14th of February 2017, the Settlement Commissioner disposed of the revision petition with a direction to the subordinate revenue agencies to ensure that no illegal encroachment or change of title of land takes place in respect of the subject land. A further direction was issued by the Settlement Commissioner to the District Administration and other authorities for development of the State land in a manner that would have a positive impact upon the villagers in particular and the whole State in general. This order of the Settlement Commissioner dated 14th of February 2017 was called in question by the contesting respondents herein before the Financial Commissioner (Revenue), Srinagar, in a revision petition. The Financial Commissioner (Revenue) concurred with the view taken by the Settlement Commissioner that the State land, deserved to be protected. The judgement of the Settlement Commissioner impugned was thus upheld and the revision petition filed by the contesting respondents was dismissed vide order dated 28th of November 2017.

6. The order of the Financial Commissioner (Revenue) dated 28th of November 2017 was called in question by the contesting respondents before this court in OWP No. 242/2018. Before the Writ Court, the contesting respondents contended that the big chunk of land, which measures approximately 11,000 Kanals, also includes a land measuring 1500 Kanals, which has been mutated by the competent revenue authority in favour of the contesting respondents, and that the orders were obtained by the appellants herein from the Settlement Commissioner and the Financial Commissioner (Revenue) without arranging them as party-respondents and by suppressing the material fact of pendency of litigation in respect of 1500 Kanals of land. The Writ Court having considered the rival contentions, came to the conclusion that the order of the Settlement Commissioner was without any notice to the affected persons and also that the appellants herein had concealed the material facts about the pendency of litigation *inter se* the parties including WP (C) No. 1711/2014.

7. The Writ Court having found that the order passed by the Settlement Commissioner and upheld by the Financial Commissioner (Revenue) had created a sort of confusion, in that, it was not clear as to whether the directions for management of the State land measuring approximately 11,000 Kanals includes the 1500 Kanals in respect of which mutations have been attested in favour of the contesting respondents and which mutations are subject matter of challenge in writ petition OWP No. 597/2012. It is in this background, the Writ Court in terms of judgement impugned set aside the order of the Financial Commissioner (Revenue) and remanded the case back to him for passing a fresh order after affording opportunity of being heard to both the parties including the contesting respondents herein.

8. It is this judgement of the Writ Court which is called in question in this appeal. The judgement impugned is challenged by the appellants primarily on the ground that the Writ Court has not considered in the right perspective that the order of the Settlement Commissioner as upheld by the Financial Commissioner (Revenue) was with a view to serve a larger purpose i.e., protection of State land from illegal encroachments and that such order prejudiced none.

9. *Per-contra*, learned counsel appearing for the contesting respondents would argue that the directions to prevent encroachment of the State land and its proper management issued by the Financial Commissioner (Revenue) may be laudable, but the fact remains that such directions cannot be extended to a land measuring 1500 Kanals which has been mutated in their favour by the competent authorities, though it is a subject matter of challenge before this Court in OWP No. 597/2012.

10. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the judgment passed by the Writ Court is perfect both on law and facts and, therefore, does not call for any interference.

11. There is no dispute with regard to the fact that the State land lying unutilized anywhere in the Union Territory of Ladakh is required to be protected by the Revenue Department. All the requisite steps are required to be taken so as to ensure that no illegal encroachment takes place. We do appreciate the concern shown by the appellants as public-spirited persons to

protect the State land. However, we cannot lose-sight of the fact that appellants have a litigation with the contesting respondents with regard to land measuring 1500 Kanals adjacent to Estate Chulichan, Tehsil and District Kargil. It is also writ-large from the record that there are several mutations of proprietorship attested by the competent revenue authorities in favour of the contesting respondents in respect of this 1500 Kanals of land. These mutations are, of course, disputed by the appellants and are presently subject matter of challenge before this Court in OWP No. 597/2012 and OWP No. 1711/2014. In these circumstances, it was incumbent upon the appellants to disclose before the Settlement Commissioner the dispute between them and the contesting respondents in respect of 1500 Kanals of land. The appellants played smart and obtained an order from the Settlement Commissioner masquerading themselves as public spirited persons and this order was obtained with a view to overreach and adversely impact the litigation pending between them and the contesting respondents with regard to mutations in respect of 1500 Kanals of land. We also fail to understand as to how the Financial Commissioner entertained the revision petition filed by the appellants purportedly under Section 15 of the Act. Needless to say that under Section 15 of the Act, the Divisional Commissioner or the Financial Commissioner is empowered to call for the record of any case pending before or disposed of by any officer under their control.

12. In the instant case, there was no case either pending or disposed of by any revenue officer under the control of Settlement Officer or the Financial Commissioner (Revenue). The Settlement Commissioner, therefore, could not have acted under Section 15 of the Act though as a Controlling Officer, he could have directed the revenue authorities subordinate to him to look into the matter and take measures for protecting the State land.

13. Be that as it may, we find that the Writ Court has correctly found substance in the claim of the contesting respondents that a land measuring 1500 Kanals mutated in their favour by the competent revenue authorities cannot be made subject matter of the order passed by the Settlement Commissioner as upheld by the Financial Commissioner (Revenue). The Writ Court, in the given facts and circumstances took a correct view in the matter and remanded the case back to the Financial Commissioner, so that

the contesting respondents are afforded a fresh opportunity of being heard and the issue as to whether the land measuring 1500 Kanals in respect of which there are mutations attested by the competent revenue officers in favour of the contesting respondents is part of 11,000 Kanals of State land is effectively determined.

14. For all these reasons we find no merit in this appeal, the same is, accordingly, dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
23.04.2026
Altaf

