

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

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LPA no.264/2024
CM no.6276/2024

Reserved on: 09.07.2026
Pronounced on: 23.07.2026
Uploaded on: 23.07.2026

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

1. Union Territory of J&K through Commissioner/Secretary to Government, Revenue Department, Civil Secretariat, Jammu/Srinagar
2. Divisional Commissioner, Kashmir, Srinagar
3. Deputy Commissioner, Ganderbal
4. Tehsildar, Ganderbal
5. Patwari Halqa Bakoor, Ganderbal

.....Appellant(s)

Through: Mr. Mohsin Qadri. Sr.AAG with
Ms. Maha Majid, assisting counsel

Versus

Saleema Begum Aged 75 years W/o Mushtaq Ahmad Beigh R/o
Towheed Abad, Nowshera, Srinagar

.....Respondent(s)

Through: Mr.Aatir Javed Kawoosa, Advocate
with Mr. Areeb Javed Kawoosa, Advocate

CORAM:

**HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR JUSTICE MOHD YOUSUF WANI, JUDGE**

JUDGEMENT

1. This *intra* court appeal by Union Territory of Jammu and Kashmir arises from an order and judgement dated 8th November 2023, passed by learned Single Judge [*“Writ Court”*] in WP(C) no.290/2023, titled as *Saleema Begum v. UT of J&K and others*, whereby the Writ Court has allowed the petition of respondent and directed appellants herein

not to interfere with the possession of respondent over the land measuring 40 Kanals bearing Khasra no.1315/1274/287/2-min situate at Village Bakura Tehsil & District Ganderbal (hereinafter to be referred as “*subject land*”).

2. Before we come to grounds of challenge urged by appellants to assail the judgment impugned, we deem it appropriate to notice few facts relevant to this appeal.
3. Indisputably, subject land came to be mutated in the name of respondent in terms of Government Order no.LB-6/C of 1958 dated 5th June 1958 read with Government Order no.S-432 of 1966 dated 3rd June 1966. The two mutations bearing nos.1154/1 and 1156, attested in terms of the aforesaid orders, are intact as on date and have not been set-aside or quashed by any component authority after following due process of law.
4. Apprehending that appellants may, without adopting the due process of law, evict her from subject land, respondent filed WP(C) no.290/2023, seeking, *inter alia*, a direction to appellants herein not to evict or dispossess her from the subject land. The writ petition was filed by respondent pleading, *inter alia*, that she was owner in possession of subject land on the basis of proprietary rights conferred upon her in terms of Government Order no.S-342 of 1966. She submitted that she, having been found in cultivating possession of subject land since 1957 and meeting the requirement of Government Order no.LB-6/C of 1958, was declared as tenant-at-will and later in terms of Government Order no.S-342 of 1966, was conferred the proprietary rights. She claimed

that she was declared as tenant-at-will and later conferred proprietary rights pursuant to the valid mutations attested by competent revenue officers.

5. Writ petition was contested by appellants herein, contending that mutations, were attested in terms of Government Order no.LB-6/C of 1958 and Government Order no.S-342 of 1966, in favour of respondent, when there was a ban on attestation of such mutations in terms of Government Order no.158/LB of 1989 dated 22nd June 1989. It was, thus, contended that mutations attested during ban are nullity in the eye of law and, therefore, do not confer any right upon respondent to own and possess the subject land. It was claimed by appellants that since respondent was in illegal occupation of the State land, therefore, they were entitled to proceed against her under the provisions of J&K State Lands (Vesting of Ownership to the Occupants) Act, 2001. The appellants, however, deny having made any attempt to evict or dispossess the respondent from the subject land without adopting the due process of law.
6. The Writ Court considered the rival contentions of the parties and perused the material on record. The Writ Court came to the conclusion that the plea of ban taken by appellants was not tenable in view of the judgement rendered by a Division Bench of this Court in the case of *Kewal Krishan v. State of J&K and others, 2004 (II) SLJ 617*, in which this Court had declared the ban imposed on attestation of mutations under Government Order no.LB-6/C of 1958 and Government Order no.S-342 of 1966, arbitrary and unconstitutional. Placing reliance upon

the aforesaid judgement, the contentions raised on behalf of appellants were rejected and writ petition was allowed in favour of respondent.

7. Feeling aggrieved, the appellants are before us in this appeal, reiterating the grounds of contest which they had urged before the Writ Court. It was vehemently contended that the Writ Court did not appreciate in correct perspective that the appellants, vide Government order no.158/LB of 1989 dated 22nd June 1989, had banned the attestation of mutations under Government Order no.LB-6/C and Government Order no.S-342 of 1966. Since the mutations in favour of respondent were attested on 27th April 1996, as such, the same were clearly in violation of Government Order no.158/LB of 1989 (supra).
8. Mr. Mohsin Qadri, learned Sr. AAG, appearing for appellants, drew our attention to Government Order no.(LB) 201 of 2007 dated 12th June 2007, whereby the Government Order no.158/LB of 1989 dated 22nd June 1989 was rescinded. It was submitted by learned counsel, Mr. Qadri, that Government Order no.(LB) 201 of 2007 clearly stipulated that where any mutation is attested in violation of Government Order no.LB-6/C and Government Order no.S-342 of 1966, the same would be void *ab initio* and land would be dealt with under J&K State Lands (Vesting of Ownership to the Occupants) Act, 2001. And for that purpose the persons, in whose favour mutations stood attested in violation thereof, would be declared as 'unauthorized occupants'.
9. We have heard learned counsel for parties and perused the material on record. We are of the considered opinion that the judgement passed by

the Writ Court suffers from no legal or factual infirmity calling for interference by us in this appeal.

10. There is no dispute with regard to the fact that the subject land is in cultivating possession of respondent since the year 1957. The respondent was declared as tenant-at-will in terms of Government Order no.LB-6/C of 1958 and conferred proprietary rights in terms of Government Order no.S-352 of 1966.

11. True it is that both the mutations in favour of respondent were attested on 27th April 1996 when the ban on attestation of such mutations by the Government in terms of Government Order no.158/LB of 1989 dated 22nd June 1989 was in operation. Therefore, we do not dispute that the mutations were attested during the ban period. However, this Court cannot lose sight of the fact that this ban imposed by the Government on attestation of mutation under Government Order no.LB-6/C and Government Order no.S-342 of 1966, in terms of Government Order no.158/LB of 1989, was held arbitrary and unconstitutional in the case of *Kewal Krishan* (supra). The relevant excerpts of the judgement in *Kewal Krishan* (supra) have been reproduced by the Writ Court in paragraph 08 of impugned judgement and the same is again set out below for reference:

“8) The only contention that has been raised by the respondents is that in 1996 when the mutation was attested in favour of the petitioner, there was a ban on attestation of such mutations in terms of Government No.158/LB of 1989 dated 22.06.1989. The issue as to whether the respondents could have imposed such a ban has been determined by a Division Bench of this Court in the case of *Kewal Krishan vs. State of J&K and others*, 2004 (II) S.L.J. 617. In the said case, the Court has observed that the right to be recorded as a tenant at will is a substantive and independent right which emanates from Government Order No.LB-6 and is dependent only upon the satisfaction of the conditions set out in the order itself. It was further observed that order No.LB-6 does not extinguish the ownership of the State over the land in occupation of

person who becomes 'tenant-at-will' after satisfying the requisite conditions. It was also observed that attestation of mutation is of no consequence so far this right accrued under LB-6 is concerned. While determining the question whether the ban could have been imposed on attestation of mutation under the aforesaid two Government Orders, the Court observed as under:

“Could such a ban as envisaged by the Government order be legally imposed by the Government? In our considered opinion the ban order is bad in law being an arbitrary exercise of the power. The mutations to be attested pursuant to Government orders LB/6 and Section 432 are in the nature of recognition of vested rights in favour of the person entitled to be recorded as tenant-at-will and owner under the said Government orders. Though the rights emanating from the said Government orders are not dependent upon the attestation of mutations yet the ban order arbitrarily without any lawful reason causes unreasonable and irrational restriction upon the recognition of already vested rights. So long as these Government orders which confer substantive rights upon the occupants of State lands are in force, no restriction can be imposed upon the recognition of such rights by imposing a ban upon the attestation of mutations. No reason for necessitating such ban on the attestation of mutation has been brought to our notice by the learned Deputy Advocate General nor any is discernable from the language of the Government order. We, therefore, quash the same for the reason of its being arbitrary. Consequently, we set aside the order dated 21.8.1993 passed by learned Director Land Records (Settlement Officer) in appeal No. 46/DLR/AP/92-93 with a direction to him for passing fresh order in accordance with law after hearing the parties. The judgment passed by the learned Single Judge is also set aside and writ petition is allowed.”

12. In view of aforesaid legal position enunciated by this Court in *Kewal Krishan* (supra), it does not lie in the mouth of appellants to contend that the mutations are bad in the eye of law on the ground that the same were attested during the ban imposed by the Government Order of 1989.

13. So far as contention by Mr. Qadri, learned counsel for appellants, with regard to impact of Government Order no.158/LB of 1989 (supra) is concerned, needless to say that if any mutation, whether it is attested under Government Order no.LB-6/C or under Government Order no.S-342 of 1966, is found to have been attested in violation of the terms and conditions laid down in the aforesaid Government Orders, the same would be void ab initio. However, the competent revenue authority

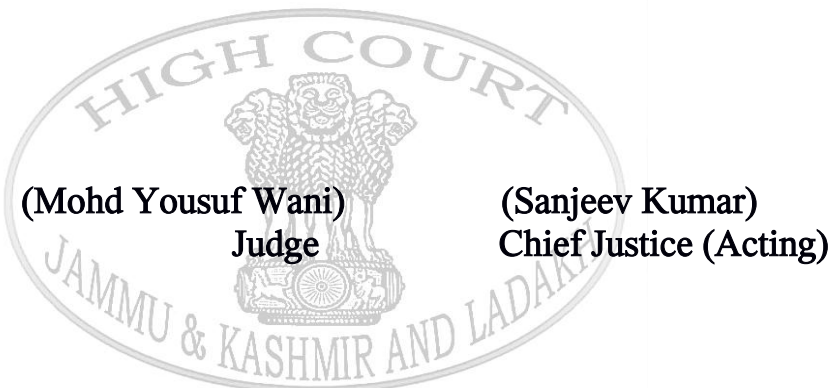
cannot come to such conclusion unless it exercises power conferred upon it under J&K Land Revenue Act, and after it follows the principles of natural justice.

14. In the instant case, competent revenue officer has not initiated any proceeding *suo moto* or otherwise to revise or set-aside the two mutations attested in favour of respondent. In absence of any such exercise having been undertaken, the recorded position is that the respondent is owner in possession of the subject land pursuant to the two valid mutations attested by competent revenue officer and, therefore, she cannot be evicted otherwise than by following due process of law.

15. For the foregoing reasons, we concur with the view taken by the Writ Court and find no merit in this appeal.

16. Dismissed.

Srinagar
23.07.2026
Ajaz Ahmad, Secy



Whether approved for reporting? Yes/No.