

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

**WP(C) No. 2667/2021
CM No. 8336/2021**

Shafi Gojar and Others

...Petitioner(s)

Through: Robinder Singh, Advocate

Vs.

Union Territory of J&K and Others

...Respondent(s)

Through: Ms. Hina, Advocate

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
20.07.2026**

1. Mutation No. **2101** dated **19.08.1983** came to be attested in which by reference to land measuring **04** kanals **07** marlas comprising khasra No. **2201** in **Mouza Verinag section 4 of Agrarian Reforms Act 1976** came to bear its effect with one Meera Baksh S/o Mir Hussain Gojar being held to be prospective owner of said land and attestation of said mutation was done by Tehsildar, Agrarian Reforms, Qazigund.
2. The petitioners 1 and 2 herein are successors-in-interest of said Meera Baksh.

3. The actual benefit of the mutation No.**2101**, instead of being localized in favour of Meera Baksh-the **1971** recorded tenant, came to be transferred in favour of two non-tenants **Gani Khan** and **Ghulam Qadir Bhat**, the predecessors-in-interest of petitioners 3 to 6.
4. Whether or not the mutation under **section 8 of the Agrarian Reforms Act, 1976** came to take place or not, a time barred appeal came to be taken out against said mutation No. 2101 of 1983 by respondents 3,4 and 5 purportedly on the basis of being successor-in-interest of originally recorded owner Mst. Rahmati before the Additional Deputy Commissioner with powers of Commissioner, Agrarian Reforms, Anantnag.
5. The institution of said appeal came to take place on **30.11.2011** by which time mutation No. **2101 of 1983** had merged into mutation No. **3146** dated **07.03.2008** attested under **section 8 of Agrarian Reforms Act, 1976**, which fact remained unannounced, undisclosed and unknown to the respondents 3 to 5 as being the appellants and also to the Additional Deputy Commissioner with powers of

Commissioner, Agrarian Reforms, Anantnag as being the appellate authority.

6. Without any application for condonation of delay accompanying said appeal, the Appellate Authority of Additional Deputy Commissioner with powers of Commissioner, Agrarian Reforms, Anantnag, by virtue of an order dated **05.06.2021** i.e., after ten years of pendency of time barred appeal, came to condone the delay, entertained the appeal on record for purpose of final arguments when petitioners came forward with the present writ petition instituted on **18.12.2021**, challenging the exercise of jurisdiction on the part of appellate Authority of Additional Deputy Commissioner with powers of Commissioner, Agrarian Reforms, Anantnag in the manner as aforesaid.

7. There is no dispute and denial to the fact that the respondents 3 to 5 ventured to file time barred the appeal (hand written) before the Additional Deputy Commissioner with powers of Commissioner, Agrarian reforms, Anantnag without due diligence by first seeking condonation of delay either by separate application or by an averment to said effect made in the memo of appeal and that is where as an appellate

authority, the Additional Deputy Commissioner with powers of Commissioner, Agrarian Reforms, Anantnag fell in a very serious jurisdictional error of condoning the delay to the prejudice of the petitioners.

8. The end situation which comes forthwith with presence of impugned order dated **05.06.2021** is that the mutation No. **2101 of 1983** is meant to be examined in appeal by the Additional Deputy Commissioner with powers of Commissioner, Agrarian reforms, Anantnag on the other hand, mutation No. **3146 of 2008** under **section 8 of Agrarian reforms Act, 1976** is very much holding its effect and existence.
9. The respondents 3 to 5 cannot be heard to say that they were unaware of attestation of mutation No. **3146 of 2008** which is follow up action to mutation under **section 4 of Agrarian Reforms Act, 1976**.
10. Even if it were to be held that mutation No. **2101 of 1983** was and is per se bad in the eyes of law but, nevertheless, it has attained a settled status in terms of the revenue record with the petitioners being in the settled position of the property as a prospective owner from **1983** onwards till **2008** and from **2008** onwards till date as an actual owners.

11. In the light of the aforesaid factual aspect, this Court holds the exercise of jurisdiction by the Additional Deputy Commissioner with powers of Commissioner, Agrarian Reforms, Anantnag seriously flawed as instead of first inviting the respondents 3 to 5 to seek condonation of delay in maintaining the appeal the condonation of delay being extended in terms of impugned order is nothing but purported suo moto exercise of authority which is not permissible in the context of **section 21 of the Agrarian Reforms Act 1976** by reference to a time barred appeal for which condonation of delay is to be expressly sought and then granted and not vice versa.

12. In view of the aforesaid, the writ petition is **allowed**. Impugned order dated **05.06.2021** is hereby set aside.

13. The disposal of writ petition shall not prejudice the rights of the respondents 3 to 5 in case if they venture to file a fresh appeal assailing the mutation No. **2101 of 1983** read with mutation No. **3146 of 2008**, duly accompanied with condonation of delay application and in case if the respondents would come up citing sufficient cause at their respective end in not

preferring the appeals within time then it is for the appellate authority to consider the condonation of delay applications and decide them on merits.

14. The period of pendency from **2011** to June, **2021** of the appeal of the respondents 3 to 5 shall not be counted as delay against the respondents 3 to 5.

15. Disposed of along with connected CM/s.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

20.07.2026

Imtiyaz

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No.

