

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

OWP 1902/2017 IA(1/2018)
CM(5457/2020) CM(5459/2020).

Hafeeza Bano.

...Applicant(s)/Petitioner(s)

Through: Mr. Mohammad Ayoub Bhat, Advocate with
Ms. Mehjabeen Bhat, Advocate.

VERSUS

State Of J K And Others.

...Respondent(s)

Through: Ms. Sabreena Bashir, Advocate vice
Mr. Sajad Geelani, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE.

ORDER

03.07.2026

01. The four petitioners, namely Mr. Mohammad Amin Shah, Mr. Maqsood Ahmad, Mr. Rashid Ahmad Shah and Mr. Muneeb Ahmad Shah, came forward with institution of present writ petition filed on **21.11.2017**, in which in the array of 13 respondents, the private respondents figure at serial Nos. 5 to 13.
02. During the pendency of the writ petition, petitioner No. **1-Mohammad Amin Shah** expired which resulted in bringing on record his legal representatives.
03. The petitioner No. **4- Muneer Ahmad Shah** also expired and his legal representatives also came to be brought on record in terms of an order dated **09.06.2023**.

04. The respondent No. **11- Masood Ahmad** also expired and so did the respondent No. **6- Ali Ganie**.
05. In terms of an order dated **02.07.2025**, this Court allowed their substitution by the legal representatives of two deceased respondent No. **11- Masood Ahmad** and respondent No. **6- Ali Ganie**.
06. In terms of an order dated **26.02.2024**, the writ petition was admitted to final hearing with a direction for issuance of post-admission notice to all the respondents.
07. The petitioners have come up with a fresh Memo of Parties.
08. The respondents No. 5, 7, 8, 9, 10, 12 and 13 are being represented by learened counsel- Mr. Sajad Geelani, learned Advocate who is being represented by his associate Ms Sabreena Bashir today.
09. The four petitioners herein were the respondents in revision before the J&K Special Tribunal which was preferred by nine persons who figured in the present writ petition originally as respondents No. 5 to 13.
10. Revenue litigations are notorious for pending and perpetuating from generation to generation and the present case is a classic example before this Court.
11. In the year **2004**, on **20.11.2004**, one- Noor-ud-din Shah, the predecessor-in-interest of the petitioners No. 1 to 4 (of whom the petitioners **No. 1 and 4** are now no more and are being

represented by their next generation in the present petition), had invoked the jurisdiction under the J&K Agrarian Reforms Act, 1976 by approaching the Assistant Collector Agrarian Reforms (Assistant Commissioner, Revenue), Pulwama for the purpose of retrieving **one kanal and seven marlas** of land comprised in khasra **No. 204** of village Sambura, Tehsil Pampore claimed by him to be in his ownership but in the default possession of the respondent No. 1- Mohammad Ganie, respondent No. 6- **Ali Ganie**, respondent No. 3- **Qadir Ganie** (the predecessor-in-interest of respondents No. 8 to 13) and the respondent No. 7- **Rehman Lone**.

12. Said application of Noor-ud-Din Shah came to be disposed of in terms of an order dated **28.10.2006**, purportedly on the basis of hearing conducted by reference to the parties to the matter and also upon perusal of the revenue record solicited in terms of the Patwari's Report.

13. Said order dated **28.10.2006** passed by the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama came to suffer a challenge in an appeal bearing **No. 77/ADC/APP** on **17.06.2008** from the end of the aforesaid four persons who figured as non-applicants in the application of Noor-ud-Din Shah before the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama.

14. Said appeal was dismissed on the point of limitation in terms of the final order dated **06.05.2013** which led the original three appellants joined by the legal representatives of deceased appellant No. 3- Qadir Ganie to file a revision before the J&K Special Tribunal, Srinagar on its File **No. STS/3755/2013**.

15. The revision petition came to be filed before the J&K Special Tribunal, Srinagar on **27.06.2017**, meaning thereby after a delay of more than four years, without apprising the J&K Special Tribunal, Srinagar about the delay and laches so attending the filing of the revision petition against the appellate order dated **06.05.2013** so passed by the Additional Deputy Commissioner exercising the powers of Commissioner Agrarian Reforms, Pulwama.

16. Be that as it may, the J &K Special Tribunal, within one month of institution of the revision petition, came forward with disposal of said revision petition in terms of impugned order dated **26.07.2017**, bearing a long-drawn commentary but with an operative direction which reads as under:

“Viewed thus, keeping above discussions into consideration, the impugned orders passed by Ld. Additional Deputy Commissioner designated as Commissioner Agrarian reforms Pulwama dated 06.05.2013 along with the order dated 28.10.2006 passed by Collector Agrarian Reforms (ACR) Pulwama are

set aside and the matter is remanded back to the Collector ACR (Pulwama), to adjudicate upon the application for recovery of possession of land moved by respondents herein afresh in accordance with law and procedure laid down under law after providing an opportunity of being heard to the parties. The parties are directed to appear before the court below on 21.08.2017. The revision is accordingly disposed of and shall be consigned to records after its due completion. The court below file, if called, be send back along with the copy of the order.”

17. The endpoint to which the J&K Special Tribunal, Srinagar led itself to arrive at was the same point at which the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama had arrived in terms of his order dated **28.10.2006** while carrying out the adjudication and then issuing consequent directions as a follow-up of the said adjudication.
18. The matter under challenge before the J&K Special Tribunal, Srinagar was never an order dated **28.10.2006** of the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama. What was under revisional examination was the appellate order dated **06.05.2013** of the Additional Deputy Commissioner (Commissioner Agrarian Reforms), Pulwama, whereby the appeal of the appellants was not entertained on account of being time-barred, and therefore, the J&K Special Tribunal, Srinagar was

supposed to restrict itself only to that extent as to whether the appeal was to be allowed to be adjudicated on merits before the appellate authority, i.e., the Additional Deputy Commissioner vested with the powers of Commissioner Agrarian Reforms, Pulwama or whether the closure was to be maintained on the issue with finality being extended to the order dated **06.05.2013**.

19. This Court has no iota of doubt that the J & K Special Tribunal, Srinagar overstepped its jurisdiction in coming up with a heavily loaded commentary with respect to the adjudicatory exercise undertaken by the Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama.

20. Therefore, the order dated **26.07.2017** passed by the J&K Special Tribunal, Srinagar cannot survive to sustain by any stretch of claim and deserves to be set aside and is, accordingly, set aside.

21. However, said being done, the real challenging point in giving closure to the writ petition is the way forward as to whether the original order dated **28.10.2006** of the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama shall be allowed to have its way and effect or whether a fresh direction be issued to the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama to carry out a fresh exercise so as to save prejudice from being caused to both sides with respect to the *lis*.

22. If this Court refrains from coming up with indulgence on this aspect, then the adjudication of this writ petition is to an end with

a direction to the J&K Special Tribunal, Srinagar to rehear the revision and consider the two aspects i.e., whether the revision was suffering from delay and laches of four years in challenging the order dated **06.05.2013** passed by the Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama and if not suffering any such delay and laches, then whether the matter was required to be remanded to the appellate authority with a direction to condone the delay and rehear the appeal on merits.

23. Both these exercises, if undertaken by this Court would amount to overstepping the limitations of jurisdiction under article 226 of the Constitution of India. Therefore, acting in the best equities of the case, this Court directs the Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama to undertake adjudication afresh by duly bearing in mind the earlier exercise done, the reports submitted therein and on the pleadings of the same very case and to come up with a fresh adjudicatory outcome, whereupon either of the two parties, if aggrieved, would have the scope to avail the remedy of appeal and the cause of justice would be well served in that eventuality.

24. The writ petition is accordingly ***disposed*** of with a direction to the Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama to resume proceedings on File **No. 184/ACP/Rev/06 of 2004** titled ***“Noor-ud-Din Shah Vs. Mohd Ganie and Ors.”*** and

undertake proceedings in accordance with law and in the light of the observations made hereinabove.

25. This Court makes it clear that the legal representatives of the deceased private respondents need not be put to fresh notice for their appearance before the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama, as the present judgment shall itself serve the purpose of notice to the legal representatives of deceased private respondents No. 6 and 11 to appear before the Collector Agrarian Reforms (Assistant Commissioner Revenue), Pulwama on **12th August, 2026**.

26. The Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama is directed to complete the resumed proceedings within a period of six months from the date of first hearing as given above for the appearance of the parties before the Collector Agrarian Reforms (Assistant Commissioner Revenue) Pulwama.

27. Accordingly, the writ petition stands **disposed** of.

(RAHUL BHARTI)
JUDGE

SRINAGAR
03.07.2026
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