

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA 285/2023 in[OWP 762/2007]
CM(8023/2025) CM(8348/2023)

Mst. Haneefa WD/O Shaban Wani
and Ors. ...Petitioner(s)

Through: Mr. M. Ayoub Bhat, Adv. with
Ms Mehjabeen, Adv.

Vs.

J and K Special Tribunal and Ors. ...Respondent(s)

Through: Mr. Mian Tufail, Adv.

CORAM:

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

ORDER

05.08.2026

01. The present intra-court appeal, filed under Clause 12 of the Letters Patent, calls in question the judgment and order dated 19.12.2023 passed by the learned Single Judge of this Court (Writ Court) in OWP No. 762/2007, titled "*Aziz Wani and Others vs. J&K Special Tribunal, Srinagar and Others*", whereby the writ petition was dismissed and the Writ Court declined to interfere with the order dated 11.09.2007 passed by the J&K Special Tribunal (hereinafter referred to as "the Tribunal") in the revision petition titled "*Aziz Wani and Others vs. Gani Wani and Others.*"

02. Briefly stated the facts leading to the filing of this petition as are germane to the disposal of this appeal, are that land measuring 14 Kanals and 13 Marlas falling under Survey No. 743/133, situated at Village Sindu Shirmal, Tehsil Shopian (hereinafter referred to as "the subject land") was owned and possessed by one Manohar Nath Tickoo (the landlord). The subject land was under the occupancy tenancy of Mst. Zooni, mother of the appellants and predecessor-in-interest of respondent Nos. 2

and 3 through late Gani Wani. It is an admitted position that Mst. Zooni was recorded in cultivating possession of the subject land during kharif 1971. Upon her demise, the occupancy tenancy rights devolved upon the appellants and late Gani Wani.

03. Ordinarily, upon the enactment of the J&K Agrarian Reforms Act, 1976, the concerned Revenue Authorities ought to have attested a mutation under Section 4 of the Act declaring the vesting of the subject land in the State, for the landlord was admittedly not in cultivating possession of the land during the year 1971. However, it was only in the year 1986 that Mutation No. 807 dated 27.03.1986 came to be attested under Section 4 of the Act, whereby the appellants as well as late Gani Wani were recorded as prospective owners. Thereafter, no mutation under Section 8 of the Act was attested. This gave rise to certain disputes arose amongst the appellants and late Gani Wani regarding possession of their respective shares, and they remained engaged in litigation without approaching the Revenue Authorities for attestation of mutation under Section 8 of the Act.

04. Be that as it may, the fact remains that in the absence of a mutation under Section 8 of the Act, late Gani Wani filed an application for seeking injunction against the landlord on the allegation that the latter was interfering with his peaceful possession over land measuring 4 Kanals and 17 Marlas. The application was later settled, whereunder the landlord made a statement that he would not interfere with the said land and that late Gani Wani could get the land mutated in his favour on the basis of the compromise. Pursuant thereto, Mutation No. 104 dated 14.02.2000 came to be attested purportedly under Section 12 of the Act in favour of Gani Wani.

05. The appellants, who had not yet been formally conferred ownership rights, felt aggrieved by the said mutation and preferred an appeal before the Additional Deputy Commissioner, Pulwama, (exercising the powers of Commissioner, Agrarian

Reforms). The appeal, however, came to be dismissed vide order dated 14.01.1999.

06. Aggrieved thereof, the appellants preferred a revision petition before the Tribunal, which too came to be dismissed vide order dated 11.09.2007. The Tribunal noticed that Mutation No. 807 dated 27.03.1986, attested under Section 4 of the Act, had already recognized the appellants as well as late Gani Wani as prospective owners to the extent of 1/3rd share each in the subject land. The Tribunal, therefore, found no illegality in the mutation attested in favour of Gani Wani pursuant to the compromise, particularly when the land mutated in his favour did not exceed his one-third share in the subject property. The said order of Tribunal was called in question by the appellants before the writ court which met the same fate.

07. Having heard the learned counsel for the parties and upon consideration of the material available on record, we are of the considered opinion that the Revenue Authorities failed to address the controversy strictly as per the Provisions of the J&K Agrarian Reforms Act, 1976. Once mutation under Section 4 was attested and all the three brothers i.e., the appellant and the predecessor-in-interest of respondents 2 and 3 were entered as prospective owners, the consequential proceedings contemplated under Section 8 of the Act ought to have been undertaken without delay. Had the competent Revenue Officer attested the mutation under Section 8 at the relevant point of time by formally vesting one-third share each in the prospective owners, the present controversy would never have arisen. Unfortunately, the omission on the part of the Revenue Authorities to undertake the consequential exercise has resulted in prolonged and avoidable litigation amongst the parties.

08. We have given a thoughtful consideration to every aspect of the matter, and having regard to the fact that the parties are litigating since long, we deem it appropriate to bring the entire

controversy to a quietus. Accordingly, while taking into consideration Mutation No. 807 dated 27.03.1986, duly attested under Section 4 of the Act by the competent Revenue Officer, we direct that a consequential mutation under Section 8 of the J&K Agrarian Reforms Act, 1976 shall be attested forthwith. Upon such attestation, ownership rights shall stand formally conferred upon the appellants as well as respondent Nos. 2 and 3, being the legal heirs of late Gani Wani, i.e., in equal shares i.e., one third each. This is notwithstanding any other mutation attested in favour of Late Gani Wani or any other co-sharer. Such mutation shall be non-est in the eyes of law. While effecting the mutation, the competent Revenue Officer shall also ensure that each party is placed in possession of his respective shares. *Ordered accordingly.*

09. The parties are directed to appear before the Tehsildar, Keegam Shopian on 17.08.2026 for further proceedings.

(Mohd Yousuf Wani)
Judge

(Sanjeev Kumar)
Chief Justice (Acting)

SRINAGAR:

05.08.2026

"Sakeena"

