

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

**OWP No. 1914/2018 c/w
OWP No. 1814/2018**

Mohammad Subhan Wani and Others

...Petitioner(s)

Through: Mr. Z. A. Qureshi, Sr. Advocate with
Ms. Rehana Fayaz, Advocate

Vs.

State of Jammu and Kashmir and Others

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
14.07.2026**

1. First of two writ petitions OWP No. **1814/2018** came to be filed on **25.09.2018** by four petitioners all being real brothers as sons of late Abdul Salam Bhat, the purported cause of action for the petitioners to come forward with writ petition was a course of action at the end of the respondent No.2-Divisional Commissioner, Kashmir acting at the instance of the private respondent No.6.

2. One **Vesh Nath Bhat** was a estate holder having his revenue estate in village Morinder Bagh (Harwan) Tehsil and District, Srinagar.

3. Upon death of said Vesh Nath Bhat, his estate devolved upon his son, widow and daughters.

4. The respondent No.8-**Makhan Lal Bhat** is son of said Vesh Nath Bhat, the respondent No.9-**Smt. Roopawati** is widow of said Vesh Nath Bhat, the respondent No.6-**Lalita Bhat** and the respondent No.7-**Babli Bhat** are the daughters of said Vesh Nath Bhat.

5. The respondent No.8-**Makhan Lal Bhat** co-joined by the respondent No.9-Smt. Roopawati (mother) constituted the petitioner No.1-**Ghulam Nabi Bhat** as true and lawful attorney with respect to land measuring **23** kanals **12** marlas falling under khasra Nos. **495 499,500, 501, 505** and **493** situated at **Murinderbagh (Harwan)** Tehsil and District, Srinagar.

6. The constitution of petitioner No.1 as attorney holder is by way of an Irrevocable Power of Attorney duly registered by the Sub Registrar, City North,

Jammu on **11.08.2008** which resulted in the petitioner No.1 getting into day today administration and management of said estate of Vesh Nath Bhat by reference to his son and his widow.

7. In fact, the execution of said deed of attorney was accompanied with the intend to dispose of the land also by said two principles in favour of the attorney holder of person of his choice.

8. Mutation of inheritance in favours of heirs of Vesh Nath Bhat had taken place on **24.07.2000** by Mutation No. **1017** which was challenged by the respondent Nos 8 and 9 before the Financial Commissioner, Revenue by setting aside the manner of inheritance as settled by said mutation.

9. Be that as it may, the respondent No.6-Lalita Bhat being aggrieved of outcome of the revision petition before the Financial Commissioner, (Revenue). J&K in terms of his order dated **21.12.2005**, instituted a writ petition OWP No. **64/2006** before Jammu Wing of this Court which is still adjudication and incidentally it is this Bench

(Rahul Bharti-J) which has heard said matter at length and is a part heard matter, wherein this Court has made investment of efforts for encouraging the parties/stakeholders for amicable settlement.

10. Now coming to the present writ petition OWP No. **1814/2018** and the cause leading to its institution, the respondent No.6-Lalita Bhat made a complaint to the respondent No.2-Divisional Commissioner, Kashmir, alleging therein that one **Ghulam Qadir Sheikh** and **Ghulam Nabi Bhat** were interfering in the property and, therefore, she being a migrant was entitled to seek protection of the said property.

11. The respondent No.6-Lalita Bhat in her application so made to the respondent No.2-Divisional Commissioner, Kashmir on **07.09.2018** refers to the fact of institution of writ petition OWP No. **64/2006** by her before Jammu Wing of the High court of J&K and Ladakh.

12. In response to said application dated **07.09.2018**, the Divisional Commissioner,

Kashmir came forward with a communication No. **DivCom/MLA/Misc/05/2018** dated **07.09.2018**, addressed to the respondent No.2-District Magistrate, Srinagar on the subject of application of the respondent No.6-Lalita Bhat to forward with an observation that during public hearing, the respondent No.6-Lalita Bhat had approached him with an application seeking protection of her ancestral property and accordingly, the respondent No.3-District Magistrate, Srinagar was directed to take the property in custody till the dispute between the parties sub-judiced before the High Court is resolved and no alienation case for the property in question to be processed for the purpose.

13. This direction had caught the petitioners in vulnerable position viz-a-viz their status qua the land in reference forming the subject matter of Irrevocable General Power of Attorney which inducted them in a lawful manner in the administration and management of the property in

the name and on behalf of none else than the principals that being the respondent No.8 and 9.

14. This Court, in terms of order dated **26.09.2018**, directed status quo to be maintained and that is the reason that the effects of impugned communication No **DivCom/MLA/Misc/05/2018** dated **07.09.2018** could not take effect.

15. Given the facts and circumstances of the case, it ought to have occurred to the respondent No.2-Divisional Commissioner, Kashmir that respondent No.6-Lalita Bhat was making some allegation against named persons Ghulam Qadir Sheikh and Ghulam Nabi Bhat by painting them as the persons interfering in the property.

16. By reference to said charge, the respondent No.2-Divisional Commissioner, Kashmir instead of first addressing the communication and command to the respondent No.3-District Magistrate, Srinagar ought to have first afforded an opportunity of hearing to the petitioners and for that matter the two persons as named in her complaint by the respondent No.6-Lalita Bhat,

whereupon the true state of affairs would have come on table before the respondent No.2-Divisional Commissioner, Kashmir for taking a final call as to whether to act upon the said application of the respondent No.6 as it is or to refer the respondent No.6-Lalita Bhat to the Jammu wing of the High Court of J&K and Ladakh before which her writ petition OWP No. **64/2006** was and continues to be pending adjudication.

17. This Court, being seized of writ petition OWP No. **64/2006** of the respondent No.6, was not in any state of handicap so as not to come to the rescue of the respondent No.6 in context of her alleged grievance for safety and security of the property if the facts of the case would have been so warranted.

18. Thus, this Court is under no iota of doubt that the act on the part of the respondent No.6 in approaching the respondent No.2-Divisional Commissioner, Kashmir was, in fact, an over reaching act and the respondent No.2- Divisional Commissioner, Kashmir fell in error by

entertaining the respondent No.6's complaint to come up with impugned direction so passed unto the respondent No.3-District Magistrate, Srinagar. There cannot be any counter to the arguments that the petitioners have been painted bad and condemned unheard before and by the respondent No.2-Divisional Commissioner, Kashmir which renders the impugned communication No. **DivCom /MLA /Misc/05/2018** dated **07.09.2018** liable to be quashed is accordingly, **quashed** without any prejudice to the cause forming subject matter of the writ petition **OWP No. 64/2006** and interim directions if any operating therein.

OWP No. 1914/2018

19. On the parity of the aforesaid judgment, this writ petition is also accordingly, disposed of on account of the identical nature of the facts and the circumstances of the case.

20. Disposed of along with connected CM/s

(RAHUL BHARTI)
JUDGE

SRINAGAR:
14.07.2026
Imtiyaz