HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

[Through Virtual Mode]

LPA No. 247/2024
CM No. 6966/2024

Dated: 4th of December, 2024.

Gurdeep Singh

… Appellant(s)

Through: -
Mr Jagpaul Singh, Advocate.

V/s

Union Territory of Jammu & Kashmir & Ors.

… Respondent(s)

Through: -
Ms Monika Kohli, Sr. AAG.

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE

(JUDGMENT)

[Chowdhary-J:]

01. The Appellant, through the medium of the instant Letters Patent Appeal (LPA), has challenged the Judgment and Order dated 13th of November, 2024 passed by the learned Single Judge of this Court in WP (C) No. 2711/2024 titled **'Gurdeep Singh v. Union Territory of J&K and Ors.'**, with a prayer to set aside the same and allow the Writ Petition of the Writ Petitioner/ Appellant herein.

02. From the perusal of the pleadings on record, it appears that the Appellant, as Writ Petitioner, had approached the Writ Court to assail an Order No. SDMR/PS/2024-25/ 358 dated 11th of July, 2024 issued by Respondent No.2-Sub Divisional Magistrate (SDM) R.S. Pura, as also Order No. TS/PS/2024-25/184 dated 27th of July, 2024 issued by Respondent No.3-Tehsildar (Executive Magistrate 1st Class), Suchetgarh, R. S. Pura, District Jammu.

03. In the Writ Petition, the Writ Petitioner/ Appellant herein claimed that his great grandfather, namely, Raj Singh S/O Kala Singh was a displaced person and land had been allotted to him under Government Order No. 578/C of 1954 for his rehabilitation, whereafter, he was recorded as an occupancy tenant thereof. He was succeeded by his sons, namely, Swarn Singh and Bhan Singh, who, after the death of one Raj Singh, were recorded as occupancy tenants *qua* the land measuring 32 Kanals and 04 Marlas comprising under different Survey numbers situate at village Flora, Tehsil Suchetgarh, District Jammu. It was further stated in the Writ Petition that a family partition took place and land measuring 16 Kanals and 02 Marlas came into the share of the grandfather of the Appellant, while as, the rest half of the land came into the share of the other brother of the grandfather of the Appellant, namely, Bhan Singh. The grandfather of the Appellant had four sons, namely, Surjeet Singh, Tarlok Singh, Tara Singh and Charanjeet Singh. Surjeet Singh was the father of the Appellant, who died on 24th of November, 2022 and Charanjeet Singh, one of the brothers of the father of the Appellant, also expired, however, one of the surviving brother of the father of the Appellant, namely, Tarlok Singh, along with his family members and legal heirs of Charanjeet Singh, were denying the rights of the predecessor-in-interest of the Appellant *qua* his share over the aforementioned land and were bent upon to grab his share also, who intended to raise construction on prime portion of the said land and alienate the rest of the land, thereby prejudicing the rights of the predecessor-in-interest of the Appellant.

04. It was further pleaded in the Writ Petition that the father of the Appellant, faced with the aforesaid circumstances, was constrained to prefer a civil Suit titled **'Surjeet Singh v. Tarlok Singh & Ors.'** for permanent, prohibitory injunction, which is *sub judice* before the Court of learned Civil Judge (Jr. Division), R. S. Pura *qua* the aforementioned land measuring 16 Kanals and 02 Marlas and the civil Court, vide Order dated 25th of January, 2022, had directed the parties to the *lis* to maintain *status quo* with respect to land measuring 16 Kanals and 02 Marlas. After the expiry of the father of

the Appellant on 24th of November, 2022, as against the aforesaid interim direction passed by the civil Court, the private Respondents herein were bent upon to dispossess the Appellant and his successors-in-interest from the aforementioned land, inasmuch as, they, in connivance with the concerned officials of the revenue Department, hatched a conspiracy to forcibly dispossess the Appellant from land measuring 01 Kanal and 15 Marlas falling under Khasra No. 612 situate at village Flora, Tehsil Suchetgarh, District Jammu, out of the total land measuring 16 Kanals and 02 Marlas, which is the subject matter of the aforementioned Suit pending before the civil Court. In order to give effect to their conspiracy, the Respondent No.5 moved an application before the Respondent No.2, by projecting a concocted story and the Respondent No.2 directed the Respondent No.3 to visit the spot, warn the Appellant to stay away from the land which is subject matter of the aforementioned Suit, whereafter, the Respondent No.3 directed not only the Appellant but also the Respondent No.5 not to create any interference in land measuring 01 Kanal and 15 Marlas situate at village Flora, Tehsil Suchetgarh, District Jammu.

05. The Appellant pleads that he, thereafter, obtained the copies of both the aforesaid orders passed by Respondent Nos.2 and 3 and filed the aforementioned Writ Petition before the Writ Court, however, the learned Single Judge, vide the impugned Judgment and Order, disposed of the Writ Petition filed by the Appellant and issued directions which were neither proper nor prayed for by the Appellant in the Writ Petition. It is alleged that the directions passed by the Writ Court have, in fact, further aggravated the grievance of the Appellant, constraining the Appellant to approach this Court through the medium of the present Letters Patent Appeal (LPA).

06. Mr Jagpaul Singh, the learned Counsel appearing for the Appellant, has vehemently argued that the Writ Court has, by disposing of the Petition filed by the Appellant in terms of the impugned Judgment and Order, in fact, not only upheld the impugned Orders passed by Respondent Nos. 2 and 3, but also the *status quo* Order passed by the civil Court as well, to the detriment of the rights and interests of the Writ Petitioner/

Appellant herein. The learned Counsel, while reiterating the grounds urged in the memo of appeal, prayed that the impugned Judgment and Order passed by the Writ Court be set aside and the relief prayed by the Writ Petitioner/ Appellant herein in the Writ Petition be granted in his favour, including the quashing of Orders passed by Respondent Nos. 2 and 3.

07. Ms Monika Kohli, the learned Senior Additional Advocate General, representing the official Respondents, submits that there is no infirmity or perversity in the impugned Judgment and Order passed by the learned Writ Court, as would warrant any interference from this Court in appeal. The learned Senior Additional Advocate General submits that, as a matter of fact, the learned Writ Court has rightly appreciated the controversy involved in the matter and has passed the Order in tune with the mandate of law governing the subject.

08. We have heard the learned Counsel appearing for the parties and perused the pleadings on record. We have also gone through the impugned Judgment and Order passed by the learned Writ Court.

09. In terms of the impugned Judgment and Order, the learned Writ Court has disposed of the Petition filed by the Writ Petitioner/ Appellant herein at the very motion stage, after taking note of Order dated 25th of January, 2022 passed by the civil Court, wherein the Writ Petitioner/ Appellant herein had pleaded that the Suit land was in joint possession of the parties and the same has not been partitioned among all shareholders, meaning thereby that the Writ Petitioner/ Appellant herein has admitted that the private Respondents are also in possession of the Suit property, and took an exception to the Order passed by the civil Court directing to maintain *status quo* on spot without recording a tentative opinion as to which portion of the Suit land the Petitioner/ Plaintiff was in occupation and in which portion of the Suit land, the Defendants/ Private Respondents are in occupation and this, probably, resulted in confusion prompting Respondent No.5 to file an application before the Respondent No.2, who in his impugned Order dated 11th of July, 2024, after taking note of the pendency of the civil Suit, directed the Respondent No.3 to visit the spot and bind

both the parties not to create any issue, so as to hamper law and order situation, pursuant whereto the Respondent No.3 issued the impugned notice dated 27th of July, 2024, asking not only the Writ Petitioner/ Appellant herein but also the Respondent No.5 not to create any interference in the land measuring 01 Kanal and 15 Marlas situate at village Flora, Tehsil Suchetgarh, District Jammu. The learned Writ Court has observed that the Petitioner/ Appellant herein, instead of seeking clarification of the Order dated 25th of January, 2022 passed by the civil Court, had rushed to this Court for filing the Writ Petition impugning the actions of Respondent Nos. 2 and 3 and disposed of the Writ Petition by giving liberty to the Petitioner/ Appellant herein to approach the civil Court with an application seeking clarification of Order dated 25th of January, 2022, with a further observation that if and when any such application is made by the Petitioner/ Appellant herein before the civil Court, the said Court shall, in its order, clearly spell out as to what is meant by the direction regarding maintenance of *status quo* as contained in the Order dated 25th of January, 2022.

10. After giving a thoughtful consideration to the pleadings on record and the submissions made by the learned appearing Counsel for the parties, we are of the considered opinion that this appeal, at this motion stage, can be disposed of with the following directions:

i. The Writ Petitioner/ Appellant herein shall, within a period of two weeks from the date of receipt of copy of this Order, approach the civil Court for seeking clarification of the *status quo* Order dated 25th of January, 2022, as directed by the learned Writ Court in the impugned Judgment and Order;

ii. The civil Court, on receipt of any such application, shall clarify the position with regard to maintenance of *status quo* as contained in its Order dated 25th of January, 2022, after hearing both the parties;

iii. Till the clarification is given by the civil Court, as aforesaid, the Orders passed by Respondent Nos. 2 and 3, impugned before the Writ Court, are ordered to be stayed; and

iv. The Respondent Nos. 2 and 3, as Revenue Officers, are well advised to go by the direction of the Civil Court which is already seized of the matter.

11. **We order, accordingly.**

12. Letters Patent Appeal (LPA) is, accordingly, **disposed** of on the above terms and the impugned Judgment and Order passed by the learned Writ Court shall stand modified to the aforesaid extent.

(M. A. CHOWDHARY)
JUDGE

(TASHI RABSTAN)
CHIEF JUSTICE

SRINAGAR
December 4th, 2024
"TAHIR"

i. Whether the Judgment is approved for reporting? Yes/ No.

Tahir Manzoor Bhat
I attest to the accuracy and
authenticity of this
document