Serial No. 139

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP(C) No. 3643/2026
CM No. 8126/2026

Tirath Ram, age 84 years S/O Late
Dharam Chand R/O Village Supwal,
Tehsil Vijaypur, District Samba .....Petitioner(s)

Through: Mr. D.K. Khajuria, Advocate.

vs

1. U.T of J&K through its Commissioner/Secretary, Public Works Department, Civil Secretariat, Jammu/Srinagar.
2. Chief Engineer, Public Works Department, Bahu Plaza, near Railway Station, Jammu.
3. Executive Engineer, Public Works Department, District Samba. ..... Respondent(s)

4. Girdhari Lal S/o Late Dharam Chand R/O Village Supwal, Tehsil Vijaypur, District Samba. .....Proforma respondent(s)

Through: Ms. Monika Thakur, Advocate vice
Mr. Ravinder Gupta, AAG.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
18.11.2026

01. The present petition under Article 226 of the Constitution of India has been filed by the petitioner seeking, inter alia, the following reliefs:

a. A writ of prohibition restraining respondent No. 3 from constructing culverts on the road known as 'Supwal to Chak Ram Chand', situated at Village Supwal, Tehsil Vijaypur, District Samba, in a manner that would divert the flow of water from the 'Khad' towards the land of the petitioner and other villagers, as such diversion is likely to cause extensive erosion and destruction of the land belonging to the petitioner and his brother, proforma respondent No. 4, measuring 07 kanals and 06 marlas, falling

under Khasra No. 419, situated at Village Supwal, Tehsil Vijaypur, District Samba.

b. A writ of mandamus directing the respondents to construct a retaining wall along the 'Khad' adjoining the land of the petitioner and other villagers, so as to prevent their lands from being submerged or eroded due to the flow of floodwater towards the said lands.

02. The case, as set up by the petitioner in the petition, is that he is the co-owner, along with his brother (proforma respondent), of land measuring 07 kanals and 06 marlas, falling under Khasra No. 419, situated at Village Supwal, earlier Tehsil Samba and now Tehsil Vijaypur, District Jammu. It is submitted that the proforma respondent is of advanced age and is not keeping physically well and, therefore, has not joined the petitioner in filing the present petition.

3. The petitioner further submits that an existing road, known as 'Supwal to Chak Ram Chand', connects with the Jammu-Pathankot National Highway. Respondent No. 3 is undertaking construction of two culverts along the said road with the stated object of regulating and diverting the flow of water from the adjoining 'Khad', which originates from the side of the National Highway and gets flooded during the rainy season, resulting in the overflowing of water across the road. The proposed site of construction of the culverts is situated at a distance of less than half a kilometre from the National Highway.

4. It is contended that the road in question is not a State road but follows a curved alignment, as a result whereof the water flowing through the adjoining 'Khad', known as 'Bredu Khad', takes a turn along the road. At the said curve, rainwater flowing from the National Highway, owing to its high

velocity and volume, enters the adjoining area before flowing back into the 'Khad'. It is submitted that, approximately 15 years ago, respondent No. 3 had constructed a piped culvert in the said 'Khad', the discharge from which caused damage to the land of the petitioner and other villagers whose lands adjoin the 'Khad'. Upon repeated representations made by the villagers, the said piped culvert was dismantled, as the flow of water during the rainy season was not only overflowing onto the road but was also causing extensive damage to the adjoining agricultural land.

5. The petitioner further submits that approximately two years ago, the piped culvert was replaced by a multiple-opening skewed culvert. However, the said structure also failed to adequately protect the road and continued to cause damage to the land of the petitioner and other adjoining landowners. Consequently, respondent No. 3 has now proposed to construct a new culvert in the 'Khad' with a view to protecting the road known as 'Supwal to Chak Ram Chand'. The grievance of the petitioner is that respondent No. 3 is primarily concerned with safeguarding the road, without adequately considering the adverse consequences which the proposed construction may have on the adjoining agricultural land.

6. It is further submitted that the land of the petitioner has already suffered substantial erosion due to floods during the rainy season, resulting in considerable financial loss. The petitioner has been compelled to incur expenditure on procuring earth and undertaking filling and levelling work to restore the eroded portion of his land. The petitioner apprehends that the ongoing construction of the culvert, if carried out in its present form and

design, would cause further damage to his land as well as that of other villagers.

7. The petitioner claims to have approached respondent No. 3, along with other villagers, on several occasions, requesting that the culvert be designed and constructed in a manner that would prevent the discharge of water from causing damage to their adjoining lands. However, no heed was paid to their requests, and respondent No. 3 allegedly expressed inability to undertake any alternative construction on the ground that the available funds were earmarked only for the structure presently being constructed to protect the road. It is also contended that the petitioner requested respondent No. 3 to have the proposed project technically examined and evaluated by experts in the field so that an appropriate design could be adopted to protect both the road and the adjoining agricultural lands. The petitioner also requested for construction of a protective wall along the 'Khad' to prevent erosion and safeguard the adjoining land. However, these requests did not yield any result.

8. In the aforesaid circumstances, the petitioner claims to have been left with no efficacious alternative remedy except to invoke the writ jurisdiction of this Court. The petitioner clarifies that he does not seek to obstruct or impede the reconstruction or repair of the existing road, but is only concerned with ensuring that the culvert is constructed in a technically sound manner so as to regulate the natural flow of water and prevent its diversion or discharge towards his land and that of other villagers, thereby avoiding further erosion and damage. It is, accordingly, contended that

expert technical assessment of the proposed construction is necessary to ensure that the interests of both the road infrastructure and the adjoining landowners are adequately protected.

9. With the aforesaid submissions, learned counsel for the petitioner prays for disposal of the present writ petition at the admission stage itself, with a direction to the official respondents to treat the petition as a representation and consider and decide the same by passing a reasoned and speaking order.

10. Notice to the respondents. Mrs. Monika Thakur, learned Advocate, vice Mr. Ravinder Gupta, learned AAG, waives notice on behalf of respondent Nos. 1 to 3. She submits that she has no serious objection to the disposal of the writ petition in the manner prayed for by learned counsel for the petitioner.

11. Having regard to the nature of the controversy involved and the submissions made by learned counsel for the parties, this Court is of the considered view that the present writ petition can be disposed of at the admission stage itself, without expressing any opinion on the merits of the claims raised by the petitioner. Accordingly, the official respondents are directed to treat the writ petition as a representation on behalf of the petitioner and consider and decide the same, in accordance with law, by passing a reasoned and speaking order, as expeditiously as possible, preferably within a period of three months from the date a copy of this order is served upon them by the petitioner.

While undertaking the aforesaid exercise, the official respondents shall ensure that the construction of the culverts on the road known as 'Supwal to Chak Ram Chand' is carried out strictly in accordance with the prescribed technical specifications and norms, after taking due consideration of the apprehension expressed by the petitioner regarding possible damage to his land and the adjoining lands of other villagers. The construction shall be so undertaken that the legitimate interests of the petitioner are duly safeguarded and no avoidable damage is caused to his land.

12. It is, however, clarified that the directions issued herein shall not be construed as an expression of opinion on the merits of the petitioner's claims, which shall be considered independently by the competent authority in accordance with law.

13. Disposed of in the aforesaid terms.

(Sanjay Parihar)
Judge

Jammu
18.11.2026
Narinder

Whether order is speaking? No
Whether order is reportable? No