Sr. No. 158

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CSA No. 8/2014

Date of pronouncement: 23.10.2026
Date of uploading: 23.10.2026

1. **President**
   Dogri Sanstha
   Karan Nagar, Jammu.

2. **General Secretary**
   Dogri Sanstha
   Karan Nagar, Jammu

…..Petitioner(s)

Through: Mr. Rahul Pant, Sr. Advocate with
Mr. Dhruv Pant, Advocate

Vs

1. **Sh. N.D. Jamwal**
   S/o Th. Sham Singh
   R/o Village Bhalwal Tehsil and District
   Jammu.

2. **Sh. Mohan Singh**
   S/o Late Sh. Sakatar Singh
   R/o Dogra Hall Jammu.

….. Respondent(s)

Through: Mr. Amarveer Manhas, Advocate

Coram: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

ORDER (ORAL)
23.10.2026

1. This Civil 2nd Appeal is directed against the judgment and decree dated 29.11.2013 passed by learned 1st Additional District Judge Jammu (1st Appellate Court) in file No. 37/Appeal titled Sh. N.D. Jamwal and Ors. Vs. President, Dogri Sanstha and Anr. whereby the judgment and decree dated 14.05.2001 passed by the learned Sub Registrar, Munsiff, Jammu (the trial Court) in file No. 50/Civil titled Sh. N.D. Jamwal and Ors. Vs. N.D. Sharma, President was reversed and suit was decreed.

2. This Civil 2nd Appeal was admitted on 04.03.2014 on following substantial questions of law.

i. **Whether any person can have a fundamental or constitutional right against a Society registered under the J&K Societies Registration Act, 1998 (1941 AD) and claim membership dehors the memorandum of Association of the Society?**

ii. **Whether a person can claim membership of a Society registered under the Societies Registration Act as a matter of right otherwise than in accordance with the Memorandum of Association of the Society?**

iii. **Whether the Civil Court can grant a decree of mandatory injunction for granting perennial membership of a Society to a Memorandum of Association of the Society (Constitution of the Sanstha), which fixes the period of membership for 03 years.**

iv. **Whether the 1st Appellate Court could re- frame the issue not arising out of pleadings, shit the onus of proof of the said issue and then decide the same without putting the parties to evidence particularly when the re-framed issue is an issue of fact and the parties have not led any evidence thereupon?**

v. **Whether the findings of the 1st Appellate Court are perverse and unsupported by any evidence?**

vi. **Whether the 1st Appellate Court could allow the appeal of a dead person?**

vii. **Whether the 1st Appellate Court was justified in allowing an appeal of the appellant before it, who was not pursuing the same and for whom no augments were addressed at all?**

viii. **Whether the 1st Appellate Court could grant any relief in favour of the Respondent No. 2 in view of the fact that respondent No. 2 never stepped into a Witness Box to prove his case before the trial court?"**

3. However, when the case has come up for hearing, it was found that the subject matter of appeal pertains to renewal of membership of Dogri Sanstha, a private society for fixed three years period from 1993 to 1996, which expired by efflux of time long before, therefore, keeping in view the questions of executability/infructuousness due to efflux of time following additional question of law was framed on 21.10.2026.

> **Whether the judgment of the first appellate Court has become incapable of execution and the civil second appeal has become infrutuous on account of efflux of time, as the membership period 1993-1996 having long expired?**

4. Heard learned counsel for the parties and perused the record.

5. The facts in brief lies in short compass, in that, the dispute pertains to renewal of membership of Dogri Sanstha, a private society for a fixed three years period, namely 1993-1996. The trial Court dismissed the suit holding that plaintiffs had no right to seek renewal of membership for a further period of three years on the ground that their activities were prejudicial to the interest of the society.

6. The 1st Appellate Court, vide judgment rendered in the year 2013, reversed the judgment of the trial Court and decreed the suit in favour of the plaintiffs.

7. Admittedly, the membership period 1993-96 expired by efflux of time long before the 1st Appellate Court judgment of 2013 i.e. approximately 17 years earlier and has, by the present date, expired more than three decades ago, resultantly, no live controversy or effective relief survives, thus the Civil 2nd

Appeal has become infructuous or at the most survives only for academic exercise.

8. The ground on which the trial Court dismissed the suit and the correctness of 1st Appellate Court's reversal need not to be examined if no executable relief remains for the expired period.

9. **In, J.M. Biswas Vs. N.K. Bhattacharjee and Ors. (2002) 4 SCC 68**, subject matter of dispute related to the election of officer bearers of Railway Employee's Union, however, by the time the matter reached the Hon'ble Supreme Court, both parties had seized to be members and successive elections had been held and recognized. Hon'ble Supreme Court observed that the dispute had lost its relevance due to passage of time and subsequent events. Continuing litigation would be "like flogging the dead horse". The Hon'ble Apex Court declined to entertain the challenge further, emphasizing that litigation would neither benefit the parties nor serve the interest of the organization.

10. In the circumstances, the judgment and decree of 1st Appellate Court, which relates to renewal of membership for the period 1993-96, is not capable of any effective or practical execution. No live controversy for executable belief survives in respect of the said historical period. Continuation of Civil 2nd Appeal would serve no useful purpose and would amount to an academic exercise.

11. Accordingly, this Civil 2nd Appeal is dismissed as having become infructuous on account of efflux of time. It is, however, made clear that this dismissal shall not prejudice the rights, if any, of the parties in respect of any subsequent period of

membership, nor shall the findings recorded by the Courts below be treated as binding for all future purposes. Parties shall bear their own costs.

12. ***Disposed of.***

(Shahzad Azeem)
Judge

Jammu
23.10.2026
Mihul

Whether the order is reportable? Yes/No
Whether the order is speaking? Yes/No

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