Serial No. 11
Regular Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

WP(C) 39/2023
CM(241/2026) CM(49/2023)
CM(7939/2024).

MUKHTAR AHMAD KAWA (BHAT).

…Petitioner (s)

Through: Mr. M.I. Qadiri, Senior counsel with
Ms. Rutba Khan, Advocate.

VERSUS

UNION TERRITORY OF J AND K AND OTHERS.

Through: Mr. Rizwan ul Zaman, Advocate with
Mr. Danish Khurshid, Advocate for R-3 and 4.
Mr. Tawheed Ah, Advocate for R- 5 to 12.

…Respondent(s)

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

ORDER

17-11-2026

1. The petitioner has challenged order dated 11.11.2022 passed by the Commissioner Agrarian Reforms (Additional Deputy Commissioner) Anantnag, whereby the appeal filed by the petitioner against the mutation No. 661 dated 17.12.1987 pertaining to the landed estate situated at Brah Ranipora, left by deceased Mst. Raja has been dismissed on the grounds of being barred by limitation.
2. Heard learned counsel for the parties and perused the record.
3. It appears that Mutation No. 661 dated 17.12.1987 came to be attested by Tehsildar Agrarian Reforms after passing a detailed order at Camp

Headquarter whereby the mutation in respect of the landed estate of predecessors-in-interest of the petitioner and private respondents Mst. Hajra came to be attested in favour of the legal heir namely Mst. Raja excluding the other legal heirs namely Mst. Hajira and Mst. Hafiza. The petitioner happens to be the successor-in-interest of Mst. Hafiza whereas proforma respondents also happen to be the successor-in-interest of Mst. Hafiza.

4. It seems that the petitioner laid a challenged to the aforesaid mutation by way of an appeal before the Commissioner Agrarian Reforms (Additional Deputy Commissioner) Anantnag in January 2022. Along with the appeal, the petitioner also filed an application seeking condonation of delay in filing the appeal. In the said application, the petitioner pleaded that the impugned mutation order has been passed ex parte, without seeking the presence of his predecessor-in-interest, Mst Hafiza, as such, neither his mother nor he was in know of the order of mutation. It was also pleaded in the application by the petitioner that he came to know about the existence of the mutation order only on 01.01.2022, when he approached the concerned Revenue Officer for obtaining the revenue extract with respect of the landed estate of the deceased, Mst. Raja, whereafter, he obtained a certified copy of the order and filed the appeal.

5. The contesting respondents in whose favour the mutation order has been attested, contested the application by filing the objection thereto. In the objections, it was submitted that mother of petitioner during her lifetime was aware about the said mutation and she never objected to the same. It

was further contended that the petitioner has not properly explained the delay in filing the appeal which is about (35) years. Therefore, such a huge delay cannot be condoned.

6. The learned Commissioner, after taking note of the rival contentions of the parties, proceeded to dismiss the application seeking condonation of delay filed by the petitioner in terms of the impugned order. While doing so, the learned Commissioner recorded a finding that the counsel for the petitioner has failed to satisfy the Court with regard to the delay in filing the appeal.

7. If we have a look at the impugned order dated 11.11.2022 passed by the learned Commissioner, it becomes apparent that the same is cryptic in nature and it lacks reasoning. Even though the learned Commissioner has taken note of the rival contentions of the parties, but the explanation tendered by the petitioner for seeking Condonation of Delay has not been dealt with by the learned Commissioner.

8. As already stated, the petitioner had pleaded that because the impugned mutation was attested in ex-parte, in the absence of his mother, therefore, they were not in know about the same and that it was only in January 2022 that he came to know about the existence of the said mutation order. The learned Commissioner did not dealt with any of these contentions of the petitioner while passing the impugned order. It was incumbent upon the learned Commissioner, to record a finding with regard to veracity of the explanation tendered by the appellant for filing the appeal belatedly and to furnish reasons in support of his conclusion.

HIGH COURT JAMMU & KASHMIR AND LADAKH

9. An order passed by a judicial or quasi-judicial authority without assigning reasons becomes arbitrary in nature. The reasons being heartbeat of every judicial/quasi-judicial order, as such, it is obligatory on the part of such authorities to give reasons in support of their conclusions so that the parties to the lis are able to understand as to why their claims have been accepted or rejected.

10. As already stated, the impugned order passed by the learned Commissioner, is devoid of reasons. The same is, therefore, not sustainable in law.

11. Accordingly, the petition is ***allowed*** and the impugned order passed by the learned Commissioner is set aside. The matter is remanded to the learned Commissioner with a direction to pass a fresh and reasoned order on the application filed by the petitioner seeking condonation of delay, after affording an opportunity of hearing to the parties and after dealing with the contentions raised by them. It is only if the learned Commissioner, finds that the delay in filing the appeal has been properly explained by the petitioner that the appeal shall be taken up for its decision on its merits.

12. Disposed of along with connected CMs.

(Sanjay Dhar)
Judge

SRINAGAR
17-11-2026
Showkat Khan