

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

CM No. 5471/2024 in
OWP No. 127/2001 along with
Connected matters.

Mst. Shahzada Hussain th.

Her Attorney Manzoor Ahmad Wani.

..... Applicant/petitioner(s)

Through: -

Mr. Danish Majid and Ms. Ahra Syed, Advocates.

Mr. Shariq. J. Reyaz, Advocate.

Mr. Shuja-ul-Haq, Advocate.

V/s

Ghulam Ahmad Katoo.

..... Respondent(s)

Through: -

Mr. Waseem Gul, GA.

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

(ORDER)

09.09.2025

OWP No. 127/2001

Mr. Danish Majid, Advocate for petitioners 1 and 3,

Non appears for rest of the petitioners

OWP No. 1856/2011

Non appears for the petitioners.

Mr. Waseem Gull, GA vice Mr. Mohsin Qadri Sr. AAG for the
official respondents.

OWP No. 839/2012

Non appears for the petitioners, Mr. Waseem Gull, GA vice Mr.
Mohsin Qadri Sr. AAG for the official respondents.

It is being stated by Mr. Gull that Mr. Mohsin Qadri Sr. AAG, has
expressed his inability on last date of hearing to appear in the matter on
account of personal reasons. Under these circumstances Mr. Gull, GA is

directed to seek necessary instructions in this regard for making alternate arrangements.

CM (5471/2024) in OWP No. 127/2001.

1. In the instant application, the applicant herein is seeking recalling of the order dated 17th March 2023, passed in CM No. 1161/2023, arising out of OWP No. 127/2001, in terms whereof one Shahzada Hussain, the petitioner 1 in the said petition came to be impleaded as party-petitioner.

2 The recalling of the order dated 17.03.2023, is being sought on the premise that the said Shahzada Hussain could not have been impleaded as party-petitioner in the writ petition though she being the legal heir of Haji Habibullah Khanyari, the original writ petitioner as she could not inherit the estate of said Haji Habibullah Khanyari, in that, the said Haji Habibullah Khanyari being the father of the applicant herein had executed a will deed qua his estate in favour of the applicant herein alone.

3. Objections to the application have been filed by the petitioner 1, non-applicant herein wherein the application is being opposed on the premise that for want of a cogent ground or pleading, the recalling of the order dated 17th March, 2023, in the application under reply is legally unsustainable and that the petitioner in the writ petition came to be impleaded in order to ensure complete and effectual adjudication of the issues involved in the petition.

Heard counsel for the parties and perused the record.

4. Perusal of the record would reveal that the applicant herein is seeking recalling of the order dated 17th March, 2023, seemingly owing to an observation made by the Division Bench in an LPA bearing No. 92/2023, preferred by the applicant herein against the said order dated 17th March, 2023, whereby the applicant came to be allowed to file an application for

recalling of the order on the ground that the estate of Haji Habibullah Khanyari (the father of the parties) vested unto the applicant herein alone pursuant to a will deed executed in his favour by his father-the said father-Haji Habibullah Khanyari and that the said Haji Habibullah Khanyari, have had earlier given a huge estate to his daughters (sisters of the applicant) including the petitioner 1.

5. Having regard to the factual position obtaining in the matter inasmuch as, the order dated 17th March, 2023, recalling of which is sought by the applicant herein as also the grounds urged in the instant application, it is manifest that the application in essence has been filed to seek review of order dated 17th March, 2023, without spelling out the grounds and circumstances which warrant reviewing of an order contemplated under the relevant provisions contained in the Code of Civil Procedure as also the High Court Rules. Since none of the grounds enumerated in the said provisions are found to be existing in the application in hand and are manifestly missing, as such, the application is found to be grossly misconceived and is accordingly, *dismissed*.

Under these circumstances, the application is found to be grossly misconceived and is, accordingly, *dismissed*.

CM No. 6066/2022 arising out of OWP No. 127/2001.

Perusal of the instant application reveals that the applicant herein has not taken steps to serve the legal heirs of the original petitioner-namely, Haji Habibullah Khanyari who stands impleaded as party-non-applicant herein, including the petitioner namely Shahzada Hussain as such, ten days time is granted to the counsel for the applicant to serve the said legal heirs of the Haji Habibullah Khanyari being three daughters namely, 1 *Shahida*, *Asifa* and *Hukum Sultana*. Besides the counsel for the applicant shall file an

updated memo of the application in hand before the Registry of this Court within a week's time. Let objections be filed to the application in hand in the meantime.

The main case be listed along with all connected application on 6th October, 2025.

(Javed Iqbal Wani)
Judge

SRINAGAR
09.09.2025
"Abdul Rashid"

