

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP (C) No. 782/2024
CM No. 2040/2024
Caveat No. 436/2024.

Mohammad Maqbool Ganie & Ors.

...Petitioner(s)/Applicant(s)

Through: Mr. N. A. Kouchai, Advocate.

Vs

Joint Financial Commissioner revenue J&K & Ors.

... Respondent(s)

Through: Mr. Shuja-ul- Haq, Advocate.

CORAM: HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE

ORDER

22.04.2024

- 1 Mr. Shuja-Ul-Haq, Advocate, who is on caveat enters appearance and waives notice on behalf of respondent No. 2-4. ***Caveat discharged.***
- 2 In the instant petition, petitioners are aggrieved of the order passed by the Joint Financial Commissioner Revenue Jammu & Kashmir at Srinagar- (respondent No.1 herein) on 14.02.2024, in a Revision petition (File No. 1358/Jt.FC-AP). The said Revision petition was filed against the order of Deputy Commissioner, Budgam dated 25.04.2022 and the respondent No. 1- Joint Financial Commissioner Revenue Jammu & Kashmir while setting aside the order has remanded the matter back to the Deputy Commissioner, Budgam with the direction to rehear the matter afresh after providing opportunity of being heard to the parties.
- 3 The impugned order has been challenged on the ground that the same has been passed on surmises and conjectures, without answering the legal aspects of Section 31 read with Section 32 of the Land Revenue Act. It is urged that Section 31 of the Land Revenue Act would manifest the presumption of correctness is attached to the entries in the revenue record and Section 32 of the Act imputes presumption of knowledge to the aggrieved person and required him to challenge the entries within a period of one year of which he/she is aggrieved. This aspect of the matter has not been considered by the respondent No.1 at all. It is stated that the respondent No. 1 remained oblivious of the fact that mutation was never challenged by Mst. Aisha mother of respondents 2-4 in her lifetime till her death in the year 2017 and she alone could have pleaded as to whether she had knowledge of the impugned mutation or not. The respondents 2 to 4

who are the children of Mst. Aisha pleaded that they came to know about the impugned mutation as averred by them in the application for condonation of delay is of no consequence in law and was simply required to be ignored in line with the legal position.

4 Notice shall go to respondent No. 1, returnable by next date of hearing.

List on 31st May, 2024.

5. Meanwhile, subject to objections and till next date before the bench, parties to the *lis* are directed to maintain status-quo with respect to the subject matter of the writ petition.

Alteration, modification or vacation on motion.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR
22nd April, 2024.
"Ab. Rashid"

