

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

**WP(C) 2175/2023
CM(5089/2023)
CM(6003/2023)
CM(6343/2025)**

BASHIR AHMAD BHAT AND ORS.(SENIOR CITIZEN).

.....Petitioner(s)

Through:
Mr. Tariq M. Shah, Adv.
Ms. Jasia Jeelani, Adv.

Versus

UNION TERRITORY OF J AND K AND ORS (REVENUE DEPARTMENT).

.....Respondent(s)

Through:
Mr. Bilal Ahmad Malla, Adv. for R. 7
Mr. Bashir Bhat, Adv. vice Mr. Alla ud din, AAG

CORAM:

HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER

07.05.2026

1. After arguing for a while, learned counsel for the parties agreed that the order passed by the Sub-Divisional Magistrate, Zainapora, Shopian, dated 20.04.2020 impugned in the present petition, could not sustain the test of law in light of the fact that the civil rights of the petitioner viz.a.viz the private respondents had been adjudicated upon by the concerned Sub-Divisional Magistrate, which was beyond the purview and domain of the said authority, being a revenue authority, more particularly when the issue had subsequently been raised before the Civil Court and the Civil Court had already seized of the matter and passed an order of restraint against the petitioner at the behest of the suit preferred by the private respondents, which has also been placed on record as Annexure-II in the instant petition. In the light of the statement made by learned counsel for the parties,

the order dated 20.04.2020 passed by the concerned Sub-Divisional Magistrate is hereby set aside, as the same being in excess of jurisdiction and incapable of sustaining the test of law.

2. The writ petition, to the aforesaid extent, is allowed. However, insofar as the second relief sought by the petitioner against the respondents, that they should not cause any sort of interference or not to dispossess the petitioner from the land falling under Khasra No. 04 measuring 04 Kanals, Khasra No. 24 measuring 02 Kanal and 14 Marlas, Khasra No. 28 measuring 04 Marlas, Khasra No. 54 measuring 02 Kanal and 13 Marlas and Khasra No. 518 measuring 05 Kanals and 12 Marlas situated at village Heff Khuri, Chitragam Shopian, the same cannot be acceded to at this stage in the light of the fact that respondent No. 7 namely Hajira Bano-had already preferred a suit and thereafter, on 19.05.2020, again the petitioners herein sought a decree for permanent prohibitory injunction restraining interference with the suit land falling under Survey No. 518 (05 kanal 12 marlas) Survey No. 04 (02 kanals 09 marlas), Survey No. 24 (02 kanal 14 marlas) Survey No. 28 (04 marlas) and Survey No. 54 (02 kanal 13 marlas) situated at village Heff Khuri Shopian.
3. Pursuant to the filing of the aforesaid suit by the respondent No. 7-plaintiff therein, the Court below i.e., learned Munsiff/Additional Special Mobile Magistrate, Shopian, vide order dated 19.05.2020, has already restrained the defendants-petitioners herein from causing any sort of interference with the suit land falling under survey No. 518 measuring 05 kanal 12 marlas, survey No. 04 measuring 02 kanal 09 marlas, survey No. 24 measuring 02 kanal 14 marlas survey No. 28 measuring 04 marlas and survey No. 54 measuring 02 kanal 13 marlas situated at village Heff Khuri Shopian, except by adopting due course of law. However, the defendants/non-

applicants were granted liberty to apply for modification, vacation or variation of the said order before the next date of hearing.

4. At this stage, learned counsel appearing on behalf of respondent No. 7 submits that the said order continues to remain operative as on date and, therefore, in the light of the aforesaid order passed by the Civil Court, the relief sought by the petitioner in the instant petition seeking a restraint order against the respondents cannot be acceded to. Accordingly, the writ petition to that extent is dismissed, as the issue is pending *res subjudice* before the learned trial Court, which shall proceed to decide the said suit strictly in accordance with law, without being influenced by any observation made by this Court while deciding the instant writ petition.
5. The writ petition is allowed only to the extent of quashment of order dated 20.04.2020 passed by the concerned Sub-Divisional Magistrate and is dismissed insofar as the relief sought against the respondents is concerned, the same being the subject matter of the suit pending before the concerned Sub-Divisional Magistrate in case titled "Hajira Bano vs. Bashir Bhat and Ors."
6. The writ petition is accordingly **disposed of** in the manner indicated above.

(WASIM SADIQ NARGAL)
JUDGE

Srinagar
07.05.2026
Sakeena