

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

WP (C) No. 2646/2024

CM No. 7197/2024

Ghulam Nabi Rather @ Malik & Anr. ...Petitioner(s)/appellant(s)

Through: Mr. Parvaiz Ahmad, Advocate.

Vs

U.T. of J&K & Ors. ... Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

18.11.2024

1. Heard learned counsel for the petitioner.
2. The factual background of the case in which the writ petition is set up is that the respondent No. 3 & 4 are the daughters of late Habibullah War.
3. Habibullah War is said to have expired in the year 1963 leaving behind respondents No. 3 & 4 as his daughters and widow Mugli.
4. Deceased Habibullah's widow-Mugli is said to have remarried one Abdul Ahmad Malik in the year 1967.
5. It is by reference to said Abdul Ahmad Malik, that the petitioners herein are said to have come into cultivating possession of ownership held and possessed land of Habibullah War comprising khasra No. 489-old, 310 (new) situated in revenue village Davipora Tehsil Tulmulla, District Ganderbal and revenue record also came to be reflected in the name of the petitioners on the basis of which a mutation No.

246 dated 11.11.1984 under section 4 of the Agrarian Reforms Act, 1976 with respect to 4 kanals of land under khasra No. 210 min, followed by a mutation No.257 dated 03.02.1985 under section 12 of the Agrarian Reforms Act, 1976 are said to have been attested.

6. The petitioners aver in the writ petition that the revenue records status of the petitioners qua the land of Habibullah Dar was all along known to the respondent No. 3 & 4 but on 1503.2023 the respondents No. 3 & 4 came to prefer an appeal on file No. SQ/482 before the Additional Dy. Commissioner with powers of Joint Commissioner, Agrarian Reforms, Ganderbal for challenging the said two mutations after a long delay of more than 25 years in which by virtue of a cryptic order dated 20.06.2024 without any reason the appellate authority came to condone the delay and then by virtue of final order dated 20.08.2024 came to set aside the said two mutations with a consequent direction to the Tehsildar concerned to update the revenue record accordingly thereby leaving the petitioners aggrieved and left with no other legal remedy except seeking judicial review of the adjudication so made in appeal by taking recourse to writ jurisdiction of this Court under article 226 of the Constitution of India.

7. Prima facie case is made out.

8. Issue notice to the respondent No. 4 & 5 only as they being the contesting respondents.
9. Petitioners to furnish registered postal covers within a period of seven days whereupon the Registrar Judicial, Srinagar to issue notices to the respondent No. 3 & 4 for their appearance.
10. Send for the record of file No. SQ/482 of 2023 tiled “*Mst. Shahmali and Anr. Vs. Ghulam Nabi Malik and Anr*” from the office of Additional Dy. Commissioner (Joint Commissioner-Agrarian Reforms) Ganderbal.
11. In the meantime, operation of the impugned order dated 20.08.2024 passed by the Additional Dy. Commissioner (Joint Commissioner Agrarian Reforms) Ganderbal in case of file SQ/482 of 2023 shall remain stayed.
12. This order shall however, remain subject to objections from other side.
13. List on 4th February, 2025.

(RAHUL BHARTI)
JUDGE

SRINAGAR
18.11.2024
"Abdul Rashid"