

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

WP(C) No. 610/2023
CM No. 1425/2023

Satish Sharma and another

....Petitioner/Appellant(s)

Through :- Mr. Arshad Majid Malik, Advocate

V/s

UT of J&K and others

....Respondent(s)

Through :-

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
14.03.2023

Heard learned counsel for the petitioners.

The petitioners are sons of late Sh. Agya Ram Sharma who came to be granted 48 years lease of plot of land measuring 7735 sft. covered by khasra no. 372-min in mauza Tope-Sherkhania, Jammu by virtue of revenue order of 1998 dated 08.04.1998. Upon the basis of the said lease in the petitioners' father, he came to set up a saw mill which is said to be obtaining at the site of the said leased land.

The petitioners' father demised on 03.12.2015 leaving the petitioners to step into his shoes with respect to legal status quo the aforesaid leased plot of land.

The petitioners found themselves concerned on getting confronted with an order no. 485/89 dated 02.02.2023 issued by the Assistant Executive Engineer, Irrigation Sub-Division, Domana, Jammu addressed to

the petitioners' deceased father Agya Ram in terms whereof it is alleged that there is an encroachment of irrigation land of 75 feet × 170 feet with respect to khasra no. 371/372 and for the same the addressee Agya Ram has been called upon to remove the said encroachment.

Learned counsel for the petitioners submits that the issuance of this notice is misconceived firstly because it is addressed to a dead person and secondly without affording any opportunity of hearing to the petitioners, the Assistant Executive Engineer, Irrigation Sub-Division Domana, Jammu has acted on his own to form the judgment that the possession of the petitioner's father quo the khasra no. 372 is that of an encroachment.

Prima facie case is made out.

Issue notice to the respondents.

Petitioners to furnish registered postal covers for service of the respondents within seven days whereupon the Registrar Judicial, Jammu to issue notices to the respondents.

List on 28.04.2023.

In the meantime, status quo on spot to be maintained by both sides.

This direction is, however, subject to objections from the other side.

(RAHUL BHARTI)
JUDGE

JAMMU
14.03.2023
Shivalee