



2026:JKLHC-JMU:942

S. No. 135

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

WP(C) No. 779/2026
CM No. 1767/2026

Reserved on: 01.04.2026
Pronounced on: 02.04.2026
Uploaded on: 02.04.2026

Whether the operative part or full
judgment is pronounced: Full

**1. Bhim Sen, age 67 years 2. Romesh Lal, age 62 yrs
both Ss/o Sh. Shounka, R/o Village Najla Chak,
Tehsil Akhnoor, District Jammu.**

.....Petitioner(s)

Through: Mr. Mohd Latif Malik, Advocate

Vs

**1. UT of J&K through Commissioner/Secretary to
Government Revenue Department, Civil secretariat,
Jammu/Srinagar.
2. Divisional Commissioner, Jammu.
3. Tehsildar Jourian, District Jammu.**

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

01. The petitioners through the medium of instant petition sought the following relief:

Writ in the nature of Certiorari quashing the order dated 06.03.2026 passed by the respondent No.2 in revision petition bearing File No. RD0050000010248, by virtue of which, the revision petition filed by the petitioners has been dismissed.

02. The brief facts of the case are that the petitioners have been in possession of a piece of land measuring 23 kanals and 07 marlas, comprising Khasra No. 36, situated at Village Najla Chak, Tehsil Akhnoor, District Jammu,



for more than three decades and they have constructed residential houses on a portion of the said land and are residing there along with their families, while the remaining land is under their cultivating possession. On the basis of such continuous physical possession, the mutation of *Sehat Kasht* was attested by the Tehsildar, Akhnoor, vide Mutation No. 40 dated 30.10.2007, after following due process of law and in the presence of a large number of elderly members of the locality.

03. It is the specific case of the petitioners that one Bansilal, an influential and politically backed person for several years, made repeated attempts to forcibly grab the land of the petitioners by misusing his political influence and by hatching a conspiracy in connivance with certain strong-arm elements of the village, despite the fact that neither he nor the other villagers had any locus standi, right, or interest in the land in question. In the month of March, 2011, Bansilal, along with six other persons, started interfering with the land in question and attempted to forcibly dispossess the petitioners therefrom. Aggrieved by the said illegal and mala fide acts of Bansilal and others, the petitioners filed a civil suit before the Court of learned Munsiff, Akhnoor, wherein Bansilal and six other villagers were arrayed as defendants. Thereafter the learned Munsiff Akhnoor vide judgment and decree dated 11.09.2014 decreed the suit in favour of the petitioners and permanently restrained the defendants in the suit from forcibly dispossessing the plaintiffs from the suit land in question.

04. It is the specific case of the petitioners that, during the pendency of the suit



before the Court of learned Munsiff, Akhnoor, one Bansi Lal, on 15.04.2014, in a representative capacity, filed an appeal before the Director, Survey and Land Records, Ex-Officio Settlement Officer/Collector, Jammu (referred to as the Court below), challenging *Sehat Kasht* Mutation No. 40 dated 30.10.2007, *inter alia*, on the ground that the same had been attested in respect of land recorded as “Khad”, over which all inhabitants of the village allegedly have an interest, as it is being used for grazing purposes, and that a portion of the land measuring approximately 6 to 7 kanals comprises a *Dev Asthan* (temple) of Sh. Guru Ravi Dass Ji Maharaj. The said Director, survey and Land Records vide order dated 13.06.2015, allowed the said appeal, set aside the impugned mutation, and directed the Tehsildar to evict the alleged encroachers from the temple land as well as the grazing land belonging to the State forthwith, with the assistance of the local police.

05. Aggrieved by the aforesaid order dated 13.06.2015, the petitioners preferred a revision petition before the Court of Divisional Commissioner, Jammu, *inter alia*, on the ground that the Court below failed to appreciate and consider the available revenue record. During the pendency of the said revision petition, Bansi Lal expired and no representative of the inhabitants came forward to seek impleadment. Consequently, the petitioners moved an application before the Divisional Commissioner, Jammu (respondent No. 2), seeking issuance of notice to the general public/inhabitants of Village Chak Najla, Block and Tehsil Akhnoor, through publication in a



newspaper. The said application was allowed, and publication was effected in the daily newspaper “*Early Times*” in its edition dated 25th July, 2015, however, no person appeared on behalf of the inhabitants. Therefore, the Divisional Commissioner, Jammu (respondent No. 2), vide order dated 06.03.2026, dismissed the revision petition on the ground that there was no evidence of allotment of land in favour of one Faqir Chand.

- 06.** The petitioners through the medium of instant petition, have challenged the impugned order, *inter alia*, on the ground that the impugned order dated 06.03.2026, passed by respondent No. 2, is arbitrary, illegal, and unsustainable in law, as the same has been rendered without proper appreciation of the facts, documents, and revenue record placed on record by the petitioners, thereby causing grave prejudice to them.
- 07.** Heard learned counsel for the petitioners at length and perused the record.
- 08.** I have gone through the order passed by the learned Divisional Commissioner, Jammu, which is subject matter of the instant petition, wherein the revision petition preferred by the petitioners against order dated 13.06.2015 passed by the Director, Survey and Land Records with Powers of Collector under Land Revenue Act, Jammu was dismissed vide order dated 06.03.2026, which is impugned in the present writ petition. The operative part of the order is reproduced as under:

“Heard the Ld. Counsel for the petitioner and ARA appearing on behalf of Respondent No.2 and perused the record placed on the file. It appear that as per Khasra Girdawari Khariief 2007, land under Khasra No. 36 measuring 23 Kanals 17 Marlas is



recorded as State land under unauthorized possession of Krishan Lal S/o Faqir Chand as Gair Maroosi. Earlier entries show possession of Faqir Chand S/o Chattru as an alleged allottee, but there is no evidence of any lawful allotment. The subsequent entry in favour of Krishan Lal as Gair Maroosi indicates abandonment by the earlier possessor, resulting in forfeiture of any alleged allotment. The possession of Krishan Lal is also unauthorized. The mutating officer, instead of evicting the encroachers, wrongly attested Sehat Indraj Mutation No. 40 dated 30.10.2007, thereby illegally regularizing the unauthorized occupation of the petitioners over the State land since Kharief 2007. Hence, the mutation was illegal and has rightly been set aside by the Court below as occupying the State land allegedly since 1 ½ decades does not confer any rights upon the petitioners to occupy the state land illegally and is liable to be ejected. The plea of the petitioners regarding denial of opportunity of hearing is untenable, as the Fard Ahkam clearly shows that adequate opportunities were granted. The petitioners appeared in person but failed to present their case through counsel, which cannot be attributed to the Court. The contention that the appeal was accepted on the ground that the land is Gair Mumkin Khad is incorrect. The revenue record shows most of the land as Gair Mumkin Ruhar, which has been correctly referred to in the impugned order. In any case, irrespective of the nature of the land, the petitioners have no right over State land, rendering their plea untenable. The reliance on the civil court decree dated 11.09.2014 passed by the Ld. Munsiff, Akhnoor is misconceived. The decree only restrains interference with possession and does not validate the impugned mutation or confer title. The civil court did not adjudicate upon ownership, which vests with the State and no person can occupy state land without a valid allotment



under law. Thus the present revision petition having no merit is dismissed and in view of the list of encroachers of state land under the subject Khasra number prepared and supplied by the Thsildar to the petitioner, Tehsildar is directed to evict all illegal occupants of State land and further take necessary steps to prevent the state land in the village from being encroached. Interim order if any passed by this Court shall stand vacated. A copy of this order shall go to the Tehsildar Jourian for compliance. Record file be returned along with a copy of this order for reference. File be consigned to record after due compilation. The reader of this Court shall upload the order on JKRCMS portal.”

- 09.** The record reveals that the mutating officer instead of evicting the encroachers-petitioners herein has wrongly attested Sehat Indraj Mutation No. 40 dated 30.10.2007, whereby illegally regularizing the unauthorized occupation of the petitioners over the State land since Kharif 2007. Thus, this Court is of the view that the mutation was illegal as the land belongs to the State and has rightly been set aside by the Court below.
- 10.** The learned counsel for the petitioners was not in a position to satisfy the Court with regard to the right of the petitioners over the State land and this Court is of the considered view that merely possession of the State land that too illegally does not confer any right upon the petitioners to hold the same on the basis of having possession over the said land. Thus, the plea of the petitioners that they are in possession of the State land and have the right to hold the said land is not tenable in the eyes of law and is liable to be rejected.



11. The second ground which has been canvassed by the petitioners is regarding denial of opportunity of hearing is also liable to be rejected for the reason that Fard Ahkam clearly shows that adequate opportunities were granted to the petitioners. The record further reveals that the petitioners appeared in person but failed to present their case through counsel, which by no stretch of imagination, can be attributed to the Court. Thus, the petitioners after having failed to present their case are **estopped under law** to question the denial of opportunity of hearing at this belated stage.
12. The last ground which has been urged by the learned counsel for the petitioners is that since the civil Court decree dated 11.09.2014 has been passed by the learned Munsiff Akhnoor, the Divisional Commissioner ought to have accepted the revision petition of the petitioners as the issue has already been decided by the civil Court. However, the Divisional Commissioner after examining the record and the decree, was of the opinion that the said decree only restrains interference with the possession and does not validate the mutation or confer title as the civil Court has not adjudicated upon the ownership of the land in question which vest with the State.
13. It is settled preposition of law that no person can occupy the State land without a valid allotment under law and rightly so, the revision petition preferred by the petitioners was dismissed and the petitioners who held to be encroachers of the State land were directed to be evicted of the said State land by way of issuing direction to the Tehsildar to evict all illegal



occupants of the State land including the petitioners by taking further steps with a view to prevent the State land in the village from being encroached.

- 14.** In the light of what has been discussed hereinabove, this Court is of the considered view that the order passed by the Divisional Commissioner, Jammu is perfectly legal, justified and in consonance with the record and the challenge thrown to the said order is ill founded. The writ petition, as such, is devoid of any merit and is utterly misconceived, false and frivolous, deserves dismissal at the very threshold. Accordingly, the same is **dismissed in limine**. The Divisional Commissioner, Jammu has rightly dismissed the revision petition having no merit and consequently, a direction was issued to the Tehsildar to evict all illegal occupants of the State land by taking further necessary steps to prevent the State land in the village from being encroached. This Court do not find any fault with the direction so issued by the Divisional Commissioner, Jammu on the basis of the finding recorded in the order dated 06.03.2026, which is impugned in the present petition and the same is accordingly upheld.

(WASIM SADIQ NARGAL)
JUDGE

JAMMU
02.04.2026
Vijay

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No