



Sr. No. 130

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1877/2023
CM No. 4353/2023

Bishan Dutt Sharma

.... Petitioner/Appellant(s)

Through:- Mr. Rajinder Jamwal, Advocate

V/s

Union Territory of J&K & ors.

.....Respondent(s)

Through:- Mrs. Monika Kohli, Sr. AAG

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

ORDER

01. In the present petition, the petitioner herein, has challenged the action of the respondents whereby the nature of the land of the petitioner has been changed. He further seeks direction to call for the record of land pertaining to Khasra No. 199 (01 Kanal 18 Marlas) and Khasra No. 200 (02 Kanals 08 Marlas) situated at Chak Lala, Tehsil Bishnah District Jammu. He is also seeking quashment of the order of Tehsildar Bishnah, thereby restraining the respondents, particularly respondent Nos. 3 to 5, from dispossessing the petitioner from the above said land.

02. It is stated that the petitioner has been in continuous, uninterrupted and settled possession and having acquired rights even adverse to the State being in possession, for more than 60 years, of the land measuring 01 kanal and 18 marlas in Khasra No.199 and 02 kanal 08 marlas in Khasra No.200-min.



03. It is further stated that the petitioner is the grandson of Late Sh, Amarnath, who prior to Independence, in late forties, transformed the unattended barren, uncultured and deserted State land, in khasra No.199 and 200-Min., into fertile, culturable and cultivable land ensuring more fertility and productivity of said land, started earning his livelihood. It is further stated that the grandfather of the petitioner engaged and exhausted all his resources including hard earned money, hired labour, incurred huge expenses to make the invincible target of otherwise deserted, unattended and unculturable land into lush green fields, result oriented, cultivable and crop productive land, and before his death on 19.04.1976, the cultivable possession of the said land was handed over to the petitioner, who otherwise, had been instrumental and moving shoulder to shoulder with his grandfather in improvement, maintenance and cultivation of the said land since his father Late Sh. Krishan Dutt predeceased his grandfather, Amarnath, on 17.09.1969, the entries in the revenue record continued to be in the name of his grandfather-Amarnath only, till today.

04. It is stated that the Jamabandi of 1957-58, clearly reflects the name of Amarnath in the cultivation/kashatkar column which speaks the volumes of claim of the petitioner and the grandfather of the petitioner that they had been in continuous, uninterrupted, unchallenged and settled possession of the said land even prior to partition, but the revenue record is 1957-58 Jamabandi afterwards and the said possession had been inherited by the petitioner which till date is continuous and going by the revenue record since 1957-58, though



possession is even prior to 1950, still the possession is of more 60 years now, therefore, by operation of law and rules made thereunder, the petitioner, who inherited possession from his grandfather, and the same being inheritable, is entitled for being conferring proprietorship rights or allotment under rules framed by the government from time to time including under S-432 etc.

05. The petitioner states that after having broken the deserted state land into cultivable, fertile with crop productivity and result oriented, since prior to Independence, grandfather of the petitioner besides fulfilling his needs and earning livelihood for his family also contributed the state adding to its resource, as earning and contribution of every individual, more so of farmer, when piled up adds to the earning and resources of the state, thus, in a way has contributed and performed his part of share in accumulating state resources. The petitioner has given his sweat and blood, invested all his earnings in the said land, nourished it like a beloved one would prefer to give his life rather than surrendering the same to the State machinery, who otherwise were in deep slumber.

06. It is further stated that the petitioner has been enjoying the peaceful, result oriented with crop productive possession of the said land, but recently in the last week, on 17th of July 2023, he found a board erected on his land, on which it was written "STATE LAND" and was astonished to know the same and after thorough verification from revenue authorities, who initially were reluctant, but later found that they have declared the said land as State land after dispossessing him



with caution to restrict entry on the same. It is further stated that they have even changed the revenue record with red entries, though girdawari for the year 2022-23, still belongs to the grandfather of the petitioner, and still continue to be in his physical possession.

07. Learned counsel for the petitioner has produced the copy of the judgment passed by this Court in *Radhey Sham & ors. Vs State & ors., 2011 (1) SLJ 381*, (OWP No. 209/2006) wherein it has been stated that on the basis of Government Order No. LB/6 of 1958, persons in occupation of State land since 1958 lands are entitled to get ownership rights thereon and also in terms of Govt. Order No. 434 of 1966 proprietary rights have to be conferred on cultivators of State lands, who are permanent residents of the State and have already been declared as tenants at will.

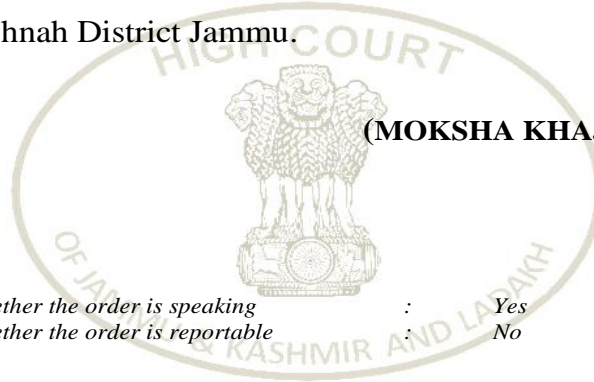
08. Notice, waived by Mrs. Monika Kohli, learned Sr. AAG and she states that though the petitioner has stated that he is in continuous, uninterrupted and settled possession on the said land from the last more than 60 years, but he has failed to approach the competent authority for redressal of his grievance.

09. Mr. Rajinder Jamwal, learned counsel for the petitioner, submits that the petitioner would feel satisfied if the writ petition is disposed of with direction to the respondents to consider the claim of the petitioner with respect to continuous, uninterrupted and settled possession on the said land from the last more than 60 years. To this, learned counsel for the respondents has no objection.



10. Be that as it may, the writ petition is **disposed of** with direction to respondents, to consider the claim of the petitioner with respect to continuous, uninterrupted and settled possession on the said land from the last more than 60 years by passing the appropriate order within a period of four weeks from the date copy of this order along with writ petition with annexures are served upon the official respondents. Till the representation of the petitioner is considered and appropriate order is passed, the respondents are directed not to evict the petitioner from the land falling under Khasra No. 199 (01 Kanal 18 Marlas) and Khasra No. 200 (02 Kanals 08 Marlas) situated at Chak Lala, Tehsil Bishnah District Jammu.

JAMMU
26.07.2023
Ram Murti



(MOKSHA KHAJURIA KAZMI)
Judge

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