



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

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CM(M) No. 143/2026
CM No. 4417/2026

Reserved on: 10.07.2026
Pronounced on: 17.07.2026
Uploaded on: 17.07.2026

Whether the operative part or full
Judgment is pronounced: **Full**

Vidya Devi and ors.

.....Petitioner(s)

Through: Mr. Dharam Paul, Advocate

Versus

Gobind Ram and ors.

.....Respondent(s)

Through: None

CORAM: HON'BLE MR JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

- (1) A suit for permanent injunction was preferred by respondent No. 1 against the proforma respondents and the predecessor-in-interest of the petitioners herein, seeking to restrain the predecessor-in-interest of the petitioners from causing any kind of interference with the peaceful possession of respondent No. 1 along with the proforma respondents over the land measuring 02 kanals comprising Khasra No. 37/25, situated at Rakh Sarkar Plai, Tehsil and District Kathua. The said suit was dismissed by the Court of the learned Chief Judicial Magistrate, Kathua (hereinafter referred to as "the trial court"), vide judgment and decree dated 31.08.2019. The Civil First Appeal preferred by respondent No. 1 was also dismissed by the Court of the learned Principal District Judge, Kathua (First Appellate Court), vide judgment



and decree dated 27.03.2023. Thereafter, Civil Second Appeal bearing RSA No. 06/2023, preferred by respondent No. 1 before this Court, was allowed by a Coordinate Bench of this Court vide judgment dated 05.12.2024. Consequently, the judgments and decrees passed by the learned trial court as well as the learned First Appellate Court were set aside, and the matter was remitted to the learned trial court for re-trial of the suit from the stage of framing of issues. Thereafter, vide order dated 09.03.2026, the following issues were framed by the learned trial court:

- (1) Whether the plaintiff is the owner in possession of 1 kanal and 10 marlas of land under Survey Number 37/25 at village Rakh Sarkar Plai, Tehsil and District Kathua? OPP
 - (2) If issue No. 1 is answered in the affirmative, whether the defendant Sat Pal caused interference in the possession of the plaintiff over the said 1 kanal and 10 marlas of land? OPP
 - (3) Relief? OP parties.
2. Thereafter, the petitioners filed applications seeking recasting of the issues and framing of additional issues besides those framed vide order dated 09.03.2026. However, the said applications came to be rejected by the learned trial court vide order dated 22.05.2026.
3. Through the instant petition, the petitioners have challenged the order dated 22.05.2026 on the ground that the learned trial court failed to frame material issues arising out of the pleadings regarding the possession of the petitioners/defendants, which had been specifically pleaded in the written statement. It was pleaded in the written statement that possession of 01 kanal of land was delivered to the predecessor-in-interest of the petitioners in the year 1988 after receipt of a



consideration amount of Rs. 15,000/-. It is contended that the learned trial court ought to have framed the following additional issues:

- (i) Whether the possession of 1 kanal was delivered to the defendant No. 1, the predecessor-in-interest of the present petitioners (Sat Pal, now deceased), and the same is continuously with his legal heirs, the present contesting petitioners since 1988?
- (ii) Whether the consideration amount amounting to Rs. 15,000/- has been received by the plaintiff from the defendant No. 1 (Sat Pal)-the predecessor-in-interest of the petitioners herein and what is its effect?
- (iii) Whether receipt of Rs. 15,000/- dated 23.11.1988 was executed by the plaintiff (Respondent No. 1) in his own handwriting and had handed over the same to (Sat Pal, defendant No. 1), the predecessor-in-interest of the present petitioners, and what is its effect?
- (iv) Whether the present petitioners are in possession of the land measuring 1 kanal in Khasra No. 37/25 to the knowledge of the respondent No. 1, with what consequences?

4. Heard learned counsel for the petitioner and perused the record.
5. As already noticed, the learned trial court framed only two issues vide order dated 09.03.2026. Issue No. 1, "Whether the plaintiff is the owner in possession of 1 kanal and 10 marlas of land under Survey No. 37/25 situated at village Rakh Sarkar Plai, Tehsil and District Kathua?", is comprehensive enough to encompass the defence raised by the petitioners. This Court is of the considered opinion that the initial burden lies upon the plaintiff, i.e., respondent No. 1, to establish the said issue. During the course of cross-examination, the petitioners shall



have full opportunity to confront respondent No. 1 with respect to their defence regarding possession of 1 kanal of land and the alleged receipt of Rs. 15,000/-.

6. In **R. Nagaraj (Dead) v. Rajmani**, AIR 2025 SC 2215, the Hon'ble Supreme Court held as under:

“We also held that there could be several points directly or indirectly connected with the main issue that has been framed. In such cases, when the larger issue that has been framed is wide enough to cover different points of disputes within it, there is no necessity of frame a specific issue on that aspect”

7. A perusal of the impugned order reveals that the learned trial court has rightly observed that *"there is no need for the Court to frame a separate issue on the question whether the applicants are in possession of one kanal of land comprised in the said survey number, since the original defendant No. 1, namely Sat Pal (now deceased), did not file any counterclaim in the case."* The learned trial court further observed that since the plaintiff seeks relief on the basis of his alleged ownership and possession over the suit land, the burden cannot be shifted onto the petitioners to prove their possession in the absence of a counter claim.
8. This Court is in complete agreement with the reasons assigned by the learned trial court while rejecting the applications preferred by the petitioners for framing of additional issues. Accordingly, this petition is found to be misconceived and the same is, as such, **dismissed**.

(Rajnish Oswal)
Judge

Jammu
17.07.2026
Karam Chand

Whether approved for reporting: Yes/No