

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

Case No:- WP(C) No. 1984/2026
CAV No 1906/2026

Manga Ram and Another

.... Petitioner(s)

Through: Mr. Ankur Sharma, Advocate
(Through Virtual Mode) with
Ms. Himani Khajuria, Advocate

Vs

UT of J&K and Ors.

..... Respondent(s)

Through:

Coram: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

04.07.2026

1. After hearing learned counsel for the petitioners at some length, it appears that the petitioners have invoked the writ jurisdiction of this Court challenging the order passed by the Tehsildar in proceedings initiated for partition under the provisions of the Jammu and Kashmir Land Revenue Act.
2. It is not in dispute that, under the provisions of the Land Revenue Act, the Tehsildar is vested with the jurisdiction to entertain and decide proceedings for partition of joint holdings at the instance of one or more co-sharers. The principal contention advanced on behalf of the petitioners is that the partition proceedings culminating in the impugned order stand vitiated on account of non-compliance with Rule 3 of the Partition Rules,

which, according to the petitioners, mandates that every application for partition must be accompanied by all the requisite documents.

3. Having considered the submission, this Court is, *prima facie*, unable to accept the contention that Rule 3 is couched in mandatory terms. A plain reading of the said Rule indicates that where the Tehsildar finds the application to be incomplete or deficient in any respect, he is empowered to return the same to the applicant for removal of such deficiencies. The Rule, therefore, does not, *prima facie*, render the proceedings void merely because all documents were not initially annexed with the application.
4. The impugned order substantially determines the rights of the parties in respect of the property in question. Such an order is appealable under Section 112 of the Land Revenue Act, which provides that every decree passed in partition proceedings shall be deemed to be a decree of a Civil Court of first instance and shall, notwithstanding anything contained in Section 11 of the Act, be appealable before the District Judge or High Court. While Section 11 provides for appeals against orders of Revenue Officers in the manner prescribed therein, Section 112 specifically governs decrees passed in partition proceedings. Thus, the order passed by the Tehsildar in exercise of his original jurisdiction is subject to a statutory appeal before the competent appellate forum.
5. It is well settled that where an equally efficacious statutory remedy is available, this Court would ordinarily decline to exercise its extraordinary writ jurisdiction, unless the impugned action is shown to be wholly without jurisdiction or in violation of the principles of natural justice.
6. Learned counsel for the petitioners, however, reiterated that the proceedings suffer from violation of Rule 3 of the Partition Rules. As

already observed, the said Rule is not, prima facie, mandatory in nature. Moreover, any procedural irregularity allegedly committed during the course of the proceedings stands merged in the final order, which is itself appealable under the statutory scheme. Such grievances can appropriately be examined by the appellate authority and do not warrant interference in exercise of writ jurisdiction.

7. Further, the impugned order records that notice of the partition proceedings had been duly served upon the petitioners, who failed to appear despite service, whereafter the proceedings were conducted ex parte. Consequently, it cannot be said, at this stage, that the impugned order suffers from any violation of the principles of natural justice so as to justify invocation of the extraordinary jurisdiction of this Court.
8. In view of the aforesaid legal position, this Court is not inclined to entertain the present writ petition. At this stage, when confronted with the availability of the statutory remedy, learned counsel for the petitioners seeks permission to withdraw the writ petition with liberty to avail the appropriate remedy available under law. Learned counsel further prays that the petitioners may be protected against dispossession for a reasonable period so as to enable them to approach the competent appellate forum.
9. The prayer is considered. Accordingly, the writ petition is dismissed as withdrawn with liberty to the petitioners to avail the statutory remedy available under law. It is further directed that, for a period of **two weeks** from today, or until the petitioners approach the competent appellate forum and seek appropriate interim relief, whichever is earlier, the parties shall maintain status quo with regard to possession of the property in

question. It is, however, made clear that this protection shall automatically cease upon expiry of the aforesaid period or upon the passing of any order by the appellate authority, whichever occurs earlier.

10. It is clarified that this Court has not expressed any opinion on the merits of the controversy, and all questions are left open to be considered by the competent appellate authority.

(Sanjay Parihar)
Judge

Jammu
04.07.2026
Javid Iqbal.