



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

LPA No. 09/2025 in  
WP(C) No. 3757/2019  
CM No. 444/2025  
Cav No. 2313/2024

*Reserved on :- 30.06.2025*  
*Pronounced on :- 11 .07.2025*

1. Ravinder Kumar, Age 37 years
2. Kanvar Kumar, Age 31 years  
Both Sons of Kunj Lal
3. Subash Chander, Age 67 years
4. Gandharab Chand, Age 63 years
5. Omkar Chand, Age 50 years
6. Kamaljit, Age 45 years
7. Ashok Kumar, Age 45 years  
Sons of Late Sh. Bishan Dass  
All Residents of Sehar Timber, Tehsil and District Kathua

**.... Appellant(s)**

Through:- Mr. G.S. Thakur, Advocate

V/s

1. Financial Commissioner, Revenue, Jammu & Kashmir, Jammu
2. Divisional Commissioner, Jammu
3. Deputy Commissioner, Kathua
4. Additional Deputy Commissioner, Kathua
5. Tehsildar, Kathua
6. Maru Ram S/o Dalipu
7. Smt. Madi Devi alias Rani Devi  
D/o Dalipu  
Both Residents of Sehar Timber,  
A/p Siyonti Tarf Narot Jaimal Singh Tehsil and District Pathankote  
Punjab

**.....Respondent(s)**

Through:- Mr. S.K. Anand, Advocate



**CORAM : HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE  
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**  
**JUDGMENT**

**Per:- Shahzad Azeem, J**

1. This intra court appeal is directed against the judgment dated 27.11.2024 passed by the learned Single Judge in WP(C) No. 3757/2019 titled "*Ravinder Kumar & Ors. vs. Financial Commissioner Revenue J&K & Ors.*", whereby and whereunder the learned writ court has dismissed the writ petition filed by the appellants under Article 226 of the Constitution of India to throw challenge to the order dated 24.09.2019 passed by the respondent No. 1 (Financial Commissioner, Revenue, Jammu & Kashmir) and further for restoration of the mutation No. 225 dated 05.09.1986 of Sehat-Indrej with respect to land measuring 27 kanals 3 marlas falling in survey No. 179 and 180 of Village Sehar Timber, Tehsil and District Kathua.

**BRIEF FACTS**

2. Succinctly stated, land falling in Survey No. 179 and 180, total measuring 27 kanals and 3 marlas, was stated to be the proprietary land of Devi Singh, Hans Raj, Mst. Renu and Janki (owners), however, their ownership rights have been extinguished in the said landed estate, under the provisions of Jammu & Kashmir Big Landed Estates Abolition Act,



Svt. 2007 (1950 A.D.) [For short 'the Act of 1950'] and the same were transferred vide mutation No. 71, attested on 14 Badho 2008 in favour of tillers, namely, Dittu S/o Taru and Dalipu S/o Niku R/o Badyari in equal shares and they were recorded as joint owners. It is relevant to place on record that the said Dittu and Dalipu were none other than the predecessors-in-interest of the appellants and respondents, herein and who are the appellants-petitioners and respondents, respectively.

3. In the year 1986, precisely on, 05.09.1986, a mutation of "Sehat Indraj" No. 225 was got attested in favour of Bishan Dass S/o Dittu (Predecessors-in-interest of the appellants) on the ground that he being in cultivating possession of the land in question, therefore, has a right to own and possess the said land. At the same time, the name of Dalipu, i.e. predecessor-in-interest of respondents Nos. 6 and 7, was deleted from the record of rights, but the said action of attestation of mutation No. 225 dated 05.09.1986 in favour of the Bishan Dass S/o Dittu was impugned, before the respondent No. 5 (Tehsildar, Kathua), who vide order dated 17.06.1996 declared the said Bishan Dass as trespasser of the land falling in Survey Nos. 179 and 180 of estate Sehar Timber, Tehsil and District Kathua.

4. This action of the respondent No. 5 (Tehsildar Kathua) was challenged by the said Bishan Dass by way of an appeal before the respondent No. 4 (Additional Deputy Commissioner, Kathua), who vide



order dated, 29.05.2002 upheld the entries of Jamabandi 1967-68, whereunder Dittu and Dalipu (predecessors-in-interest of parties herein) were reflected as co-sharers and as a corollary to the orders of the respondent No. 4 (Additional Deputy Commissioner, Kathua), the respondent No. 5 (Tehsildar, Kathua) attested a fresh mutation bearing No. 295 dated 21.09.2004, reflecting therein the cultivating possession of Dalipu (predecessor-in-interest of respondents Nos. 6 and 7 herein) with a further direction that after the death of Dalipu, his heirs, namely, Maru Ram and others be recorded as such. This mutation was challenged again before the respondent No. 4, who vide order dated 18.03.2006 upheld the said mutation.

5. Thereafter, although matter was taken before different forums, but same having no relevance for the adjudication of present appeal, therefore, while skipping to those details, we deem it proper to mention that order of the Tehsildar, whereby the mutation No. 295 dated 21.09.2004 was attested and the parties herein were reflected as co-sharers and in joint possession of the property in question, came to be assailed by way of Revision Petition before respondent No. 2, (Divisional Commissioner, Jammu), but same came to be dismissed, vide order dated, 01.09.2017 and subsequently, this order was impugned before respondent No. 1 (Financial Commissioner), whereto the appellants/petitioners did not get any respite on both the factual as well as legal contentions and



vide order dated, 24.09.2019 the respondent No. 1 dismissed the revision petition. So, the appellants/petitioners questioned the legality of order dated, 24.09.2019 passed by the respondent No. 1 before the learned writ Court, which too met with same fate and thus Appellants-Petitioners are before us in LPA. Above narration was the crux of the chequered history of the matter.

**6.** We do not wish to burden this judgment by repetitive factual narration, but in order to maintain the consistency, we wish to place on record the factual narration, lucidly taken note of by the learned writ Court in paras 1, 2 and 3 of the impugned judgment dated 27.11.2024, which reads as under :-

*“1. Ancestor of the petitioners, namely-Dittu and predecessor-in-interest of the respondent Nos. 6 & 7, namely-Dalipu, were in joint cultivating possession of land measuring 27 Kanal 3 Marlas comprising survey No. 179 (9 Kanal 10 Marlas) and survey No. 180 (17 Kanal 13 Marlas) situated at village Sehar Timber, Tehsil and District Kathua. Mutation No. 71 was attested on 14 Badho 2008 under the provisions of J&K Big Landed Estates Abolition Act, 1950 and the Dittu & Dalipu were declared as joint owners of the land measuring 27 Kanal 3 Marlas comprising survey Nos. 179 and 180. Mutation of inheritance bearing No. 197 was attested on 25.08.1980 in favour of the successors in interest of Dittu. It is stated that on 05.09.1986, Sehat-Indraj No. 225 was attested in favour of the late father of the petitioner Nos. 3 to 10 and grandfather of the petitioner Nos. 1 & 2 namely-Bishan Dass on the statement*



*made by the father of respondent Nos. 6 and 7 and affidavit of one Milkhi Ram. Dalipu assailed the mutation No. 225 in respect of Sehat Indraaj before the respondent No. 4, who remanded the matter to the respondent No. 5 for de novo enquiry. The respondent No. 5 conducted the enquiry and again attested mutation in favour of late father of the petitioner Nos. 3 to 10, which was again challenged before the respondent No. 4. The respondent No. 4 set aside the mutation and remanded the case to the respondent No. 5 for fresh enquiry. The Tehsildar vide order dated 17.06.1996 passed an order whereby the cultivation rights of the land measuring 27 kanals 3 Marlas comprising survey Nos. 179 and 180 were conferred in favour of the respondent Nos. 6 & 7 and Bishan Dass was also declared as trespasser in respect of excess land in his share.*

*2. Late father of the petitioner Nos. 3 to 10, namely-Bishan Dass being aggrieved of the order dated 17.06.1996 assailed the same before the Additional Deputy Commissioner, Kathua i.e. respondent No.4 and vide order dated 29.05.2002, the respondent No.4 observed that the mutation of Sehat-Indraaj was wrongly attested by the Tehsildar without verifying the position. A copy of the order was forwarded to the Tehsildar, Kathua for necessary action. After the enquiry, mutation No. 295 was attested in favour of both the co-sharers on 21.09.2004.*

*3. The said Bishan Das assailed the order dated 18.03.2006 passed by the Addl. Deputy Commissioner, Kathua with powers of Commissioner Agrarian Reforms, whereby the appeal against the mutation No. 295 was dismissed, before the J&K Special Tribunal, Jammu through the medium of the revision petition. The J&K Special Tribunal, Jammu vide order dated 27.10.2006 dismissed the revision of the petitioners. The*



*petitioners thereafter assailed the order dated 27.10.2006 before this Court through the medium of OWP No. 796/2006 but the same too was dismissed, with liberty to the petitioners to approach the appropriate forum to seek appropriate relief which may be available to them under law. Thereafter, the petitioners assailed the mutation No. 295 dated 21.09.2004 before the respondent No.3 i.e. Deputy Commissioner, Kathua and the respondent No.3 vide its order dated 18.02.2009 dismissed the appeal and also imposed Rs. 5,000/- costs upon the petitioners therein. Petitioners being aggrieved by the order dated 18.02.2009 passed by the respondent No. 3 assailed the same before the respondent No. 2 through the medium of a revision petition and the revision petition was also dismissed vide order dated 01.09.2017 by the respondent No. 2, but the order in respect of costs imposed was set aside. Thereafter, the petitioners being aggrieved of order dated 01.09.2017 preferred second revision petition before the respondent No. 1, who vide order dated 24.09.2019 dismissed the revision petition by holding that mutation No. 225 was bad in law and the mutation No. 295 is valid mutation.”*

### **FINDINGS OF THE WRIT COURT**

7. Mainly, hinges on the point that the Para-100 of Standing Order No. 23-A, dealing with the record of mutation, do not postulate the action of deletion or entry of the names from the right of record, but same pertains to the correction of clerical errors in the name, caste, tribe, residence or other particulars, which do not practically affect any right in any way and for entry of a posthumous legitimate heir etc. and thus, the learned writ



Court came to the conclusion that the action of attestation of mutation No. 225 by the authorities below in exercise of powers under, “Sehat Indraj” in the name of successor-in-interest of Dittu and deletion of the name of Dalipu from the revenue record and Bishan Dass shown to be in the exclusive possession of property in question, is in utter disregard of Paragraph 100 of Standing Order No. 23-A. The learned writ court has specifically recorded that Bishan Dass never assailed the order dated 29.05.2002, pursuant to which the mutation No. 295 was attested and in the said mutation proceedings, Bishan Dass chosen to remain absent, despite being duly summoned and this fact was duly taken note of by respondent No. 2 (Divisional Commissioner) in its order dated, 01.09.2017, to the effect that the mutation No. 295 was never attested without knowledge of Bishan Dass. The learned writ court was of the considered opinion that deletion of the name of Dalipu while deciding the mutation No. 225, reflecting it as Sehat-Indrej was in utter disregard and in violation of paragraph 100 of the Standing Order No. 23-A of records of mutation, which only provides and envisages for correction of clerical errors.

**8.** Finally, the learned writ court came to the conclusion that the appellants/petitioners failed to demonstrate any perversity or any jurisdictional error in the impugned order, which may warrant interference by the Court while exercising judicial review under Article 226 of the





Constitution as the writ court cannot convert itself to an appellate or revisional forum, while examining the validity of the order impugned.

### **ANALYSIS**

9. On facts, the contents of the LPA are just repetition of the contents of writ petition, however, grounds of challenge to the impugned judgment of the learned writ court calls for consideration.

10. The appellants are aggrieved of the findings of the learned writ Court, whereby it has been held that the appellants never questioned the legality of the order dated, 29.05.2002 passed by Additional Deputy Commissioner, Kathua, pursuant to which the mutation No. 295 was attested. In this regard the appellants would submit that since the order dated 29.05.2002 was a remand order and was merged with the order of mutation and in pursuance of which the respondent No. 5, without conducting any spot enquiry attested the mutation in *ex parte* on 21.09.2004, which became the subject matter of the challenge before the higher authorities; Further contention of the appellants is that the predecessor-in-interest of the respondents Nos. 6 and 7 was never in cultivating possession of the land in Kharif 2007, therefore, being not falling within the definition of tiller, the land would not have transferred in terms of the Act of 1950, however, no enquiry on this aspect has been made by the concerned authorities; It is also urged that the order dated 21.09.2004, whereby the mutation No. 295 was attested at Tehsil



Headquarter, is against the mandate of law as the proceedings were required to be conducted on spot and further the person whose rights are being extinguished was required to be heard, but this aspect has not been addressed by the authorities below, inasmuch as learned writ Court also did not take into consideration this vital aspect of the matter; The plea is also raised by the appellants that once the respondent No. 6 has sold the land measuring 8 kanals by virtue of an agreement to sell in consideration of Rs. 16 lakhs, then he ceased to be the owner, therefore, failure of the respondent No. 6 to bring this point in the notice of the learned writ Court amounts to concealment of the fact.

**11.** In addition to the above grounds of challenge, the appellants have framed in the memo of appeal three questions of law, which for the facility of reference are reproduced herein below:-

- i. Whether a person out of possession of the land with the operation of Big Landed Estate Abolition Act is entitled to get the rights under Section 4 of the Act?*
- ii. Whether it is not mandatory to be in the cultivating possession of the land as a tiller within the meaning of Section 2-B of Big Landed Estate Abolition Act at the crucial period of 1<sup>st</sup> Baisakh 2004 so as to get the rights of ownership within the meaning of Section 5 of Big Landed Estate Abolition Act?*
- iii. If the legal question raised as number (i) & (ii) are held to be in affirmative, whether the order passed by the Tehsildar*



*and the Joint Agrarian Reforms Commissioner in ex-parte without hearing the appellants are justified?*

**12.** We now proceed to deal with the grounds of challenge one by one.

**13.** Insofar as the ground of challenge with regard to the observations of the learned writ Court regarding the failure to challenge the order dated 29.05.2002, which forms the basis of attestation of mutation No. 295, is concerned, on perusal it is crystal clear that the same was not a remand order as has been asserted by the appellants, but there were specific findings recorded to the effect that **“the mutation of ‘Sehat-Indraj’ for 1971”** has wrongly been attested by the Mutating Officer. As per the copy of Jamabandi for the year 1967-68 of Village Sher Timber, both the parties are co-sharers. It is further held in the order dated 29.05.2002 that Dittu, i.e., the predecessor-in-interest of the appellants has died and similarly Dalipu, i.e., the predecessor-in-interest of the respondents Nos. 6 and 7 has also died. The mutation of Sehat Indraj has wrongly been attested without verifying the possession, therefore, after recording the factual findings, the Additional Deputy Commissioner, Kathua upheld the entries of Jamabandi as recorded for the year 1967-68. It was only in compliance to the said order of respondent No. 4, Bishan Dass was summoned by respondent No. 5, who despite having the knowledge, deliberately chosen not to appear, as such, the cultivating possession of predecessor-in-interest of respondents Nos. 6 and 7, namely Dalipu as per



Jamabandi of 1967-68 was treated to be uninterrupted till the lifetime and after his death, same was ordered to be entered in the names of respondents Nos. 6 and 7, respectively. This order of respondent No. 5 dated, 21.09.2004 was just compliance of order dated, 29.05.2002, wherein the factual findings were returned and further on enquiry being made by the respondent No. 5, it was carried out, vide order dated 21.09.2004. Therefore, the appellants are not right in submitting that the order dated 29.05.2002 was simpliciter a remand order.

**14.** Since the attestation of the mutation bearing No. 295 dated 21.09.2004 was the very foundation of the findings returned by the respondent No. 4 vide order dated 29.05.2002 and failing to challenge the same amounts to accepting the findings returned therein and resultantly, those findings have assumed finality, therefore, the appellants cannot be heard to say that the same was a remand order and it was not required to be challenged.

**15.** Insofar as, the contention of the appellants that the predecessor-in-interest of the respondents Nos. 6 and 7 were not in cultivating possession of the land for Kharif 2007 is concerned, same is bereft of any factual or legal basis as there are specific findings recorded while attesting the mutation No. 71 dated 14 Bhado 2008 under the provisions of Act of 1950, that Dittu and Dalipu are the joint owners and are in cultivating possession of the land in question. Hence, the land was transferred in their



favour in terms of Act of 1950. It has been specifically mentioned and recorded that their possession and cultivation has been supported and certified by the Zamindaran of the Village, therefore, the plea of the appellants that the predecessor-in-interest of respondents Nos. 6 and 7 was not in cultivating possession of the land in question, is devoid of any merit and is contrary to the record.

**16.** The plea of the appellants regarding passing of *ex parte* order dated 21.09.2004 and without providing the opportunity of being heard, is also in sharp contrast to the record, in that, perusal of the proceedings dated, 21.09.2004 would make it abundantly clear that Bishan Dass was duly summoned, but he failed to appear, as reportedly, he refused to sign and accept the summon, which was entrusted for service to the Chowkidar concerned. Therefore despite knowledge, Bishan Dass chosen to remain absent, as such, now at this stage appellants cannot raise the plea that Bishan Dass was not heard or order was passed in *ex parte*, when fact of the matter remains that he was duly served and had the knowledge of the proceedings and to this effect there were concurrent findings also.

**17.** The ground of challenge is also thrown that as per the mandate of law the proceedings were required to be conducted on spot, but same was observed in breach of statutory mandate. In this regard, on being record extensively thrashed by us, we did not find any factual foundation on this point being laid by the appellants before the learned writ Court. Therefore,



the same cannot be entertained at this stage, nor can be proved, nonetheless the fact of the matter remains that during the proceedings before the respondent No. 5 dated, 21.09.2004, despite being Bishan Dass duly summoned, he deliberately chosen to remain absent. Therefore, at this stage, the appellants cannot be permitted to raise this plea nor same can be entertained.

**18.** Similarly, it is for the first time in the LPA, the appellants have raised the factual plea that the respondent No. 6 has sold the land in question measuring 8 kanals and there is concealment on the part of the respondent No. 6, but this factual plea cannot be entertained, as the same is a question of fact and is required to be pleaded and established before the appropriate forum and for the first time any factual plea can neither be entertained nor any finding can be returned in the present proceedings.

**19.** In addition, what has been observed hereinbefore, the fact of the matter remains that the predecessor-in-interest of the parties have been benefitted under the provisions of the Act of 1950, on the basis of having been found in cultivating possession of the land in question and in this regard there are concurrent findings recorded by the authorities below. However, once the mutation came to be attested in favour of the parties in equal shares and was declared as joint owners of the land measuring 27 kanals 3 marlas falling in Surveys Nos. 179 and 180, in that event the mutation No. 225 dated 05.09.1986 (Sehat Indraj) legally could not have



been attested in favour of Bishan Dass (predecessor-in-interest of the appellant) by deleting the name of Dalipu (predecessor-in-interest of respondents Nos. 6 and 7), as the same is in contravention to the paragraph 100 of the Standing Order No. 23-A, which deals with the Sehat Indraj, changes and envisages only the correction of clerical errors etc. Therefore, for this reason the findings of learned writ Court are based on sound interpretation of provisions of statute and principle of law.

20. Despite there being concurrent findings regarding the cultivating possession of the predecessors-in-interest of the respondents Nos. 6 and 7, as, 'tiller' at the time of transfer of land in question, however, notwithstanding this fact, the appellant has framed three questions of law viz.; Whether a person out of possession of the land with the operation of Big Landed Estate Abolition Act is entitled to get the rights under Section 4 of the Act?; Whether it is not mandatory to be in the cultivating possession of the land as a tiller within the meaning of Section 2-d of Big Landed Estate Abolition Act at the crucial period of 1<sup>st</sup> Baisakh 2004 so as to get the rights of ownership within the meaning of Section 5 of Big Landed Estate Abolition Act?; If the legal question raised as number (i) & (ii) are held to be in affirmative, whether the order passed by the Tehsildar and the Joint Agrarian Reforms Commissioner in ex-parte without hearing the appellants are justified?



21. Although, while delving into the grounds of challenge of the impugned judgment of the learned writ Court, we have dealt with the issue of the cultivating possession of the parties at the crucial date, however, in view of specific questions of law so framed by the appellants, at the cost of repetition, it is deemed proper to find out as to whether the land in question came to be transferred in favour of the predecessor-in-interest of the contesting parties, taking into consideration their possession of the land in question as a tiller in terms of the Act of 1950.

22. As we have already taken note of the fact that the land in question was transferred vide mutation No. 71 attested on 14 Bhado 2008 in favour of Dittu and Dalipu, predecessors-in-interest of the appellants and the respondents Nos. 6 and 7 respectively, as tillers, in equal shares and thus, both were recorded as joint owners.

23. Now coming to the proceedings of the mutation dated 14 Bhado 2008, which unequivocally contains the recital that ownership rights are transferred in favour of Dittu and Dalipu, i.e., predecessors-in-interest of the appellants and the respondents Nos. 6 and 7, respectively, being in cultivating possession, in equal share, in respect of land measuring 27 kanals 3 marlas falling in survey Nos. 179 and 180 respectively, by extinguishing of the ownership rights of Devi Singh, Hans Raj, Mst. Renu and Janki.





24. Similarly, the Additional Deputy Commissioner, Kathua in appeal titled "*Bishan Dass vs. Maru Ram*" vide order dated 29.05.2002 specifically recorded that as per the copy of Jamabandi for the year 1967-68 of the Village Sehar Timber both the parties are co-sharers and thus, the mutation of Sehat Indraj has wrongly been attested without verifying the possession of Bishan Dass (predecessor-in-interest of the appellants) and accordingly, Tehsildar was directed to proceed as per law.

25. At the same time, be it noted that when the name of Dalipu, i.e., predecessor-in-interest of respondents Nos. 6 and 7 was deleted from the record of rights and in this regard mutation No. 225 dated 05.09.1986 was attested in favour of Bishan Dass and this action of attestation of mutation, impugned before the respondent No. 5, the said Bishan Dass was declared as trespasser vide order dated 17.06.1996 and on further challenge to said order, respondent No. 4 vide order dated 29.05.2002 upheld the entries of Jamabandi 1967-68, whereunder Dittu and Dalipu (predecessors-in-interest of parties herein) were reflected as co-sharers and thus, fresh mutation bearing No. 295 dated 21.09.2004, reflecting therein the possession of Dalipu and after his death, his heirs, namely, Maru Ram and others were ordered to be recorded as such. Again, the order dated 21.09.2004 was assailed by way of revision before the respondent No. 2, but again vide order dated 01.09.2017, the revision petition was also dismissed, thereby findings of the authorities below



regarding the possession of predecessor-in-interest of respondents Nos. 6 and 7 at the time of transfer of the land under the provisions of the Act of 1950 and continuously thereafter were upheld.

26. The findings so returned by the respondent No. 2 while dismissing the revision petition also met with the same fate, when further challenge was thrown to the order of respondent No. 2 dated 01.09.2017 by way of the revision petition before the respondent No. 1, however, the respondent No. 1 while dismissing the revision petition vide order dated 24.09.2019, in para 6 observed thus:-

*“From the records placed on file it is seen that the land in question has been vested in ownership to the predecessors of the parties herein under the provisions of Big Landed Estates Abolition Act and the extract of Rabi/Kharief 1971 reflects Dalipu in the cultivating possession of the said land.”*

27. Further the respondent No. 1 in para 8 of the order dated 24.09.2019 made observation that the argument that Deputy Commissioner has not returned any finding on mutation no. 295 is not valid, as the Deputy Commissioner has rightly dismissed the appeal of present petitioners (Appellants herein) by observing that mutation No. 295 has already been upheld by the Additional Deputy Commissioner, Kathua vide order dated 18.03.2006 and by concealing this fact the same mutation cannot be again challenged before him without putting challenge to the



order of Additional Deputy Commissioner, who too exercises powers of Collector to hear appeals under Land Revenue Act pursuant to SRO 536 dated 3<sup>rd</sup> of December, 1999.

**28.** From the above concurrent findings recorded and upheld by the revenue authorities in hierarchical order, abundantly, make it clear that the predecessor-in-interest of respondents Nos. 6 and 7, namely, Dalipu has been conferred ownership right of half of the share of the land in question on being found in cultivating possession of the land and being falling within the definition of 'tiller' in terms of the Act of 1950 and this fact was upheld in appeal and in revision petitions filed by the appellants herein. Once there are sufficient concurrent findings of the fact returned by the forum below, we cannot entertain the question of cultivating possession of the predecessor-in-interest of the respondent No. 6 and 7 afresh.

**29.** Therefore, in view of the discussion made herein above, the question of law so framed by the appellants appears to be an abortive attempt to raise again factual pleas so as to not give quietus to the litigation, despite sufficient concurrent findings of fact available on record.

**30.** Notwithstanding the observations made by us, some of the factual pleas for the first time are being raised by the appellants, which of course cannot be considered at this stage. However, insofar as, the plea of the



appellants regarding the purported action of the respondent No. 6 in selling the land measuring 8 kanals is concerned, same may be taken care of within the four corners of the Act of 1950, as sufficient mechanism is provided therein.

**31.** We concur with the findings of the learned writ Court that the writ Court in exercise of power of judicial review under Article 226 of the Constitution of India, cannot convert itself to an appellate or revisional forum and thus, the scope of interference is limited to the extent that if any perversity or jurisdictional error is shown, however, in the case on hand the appellants all along have raised factual pleas and there are concurrent findings recorded by the revenue authorities. Scope of the writ petition under Article 226 of the Constitution of India is limited and following are exception where writ petition can be entertained:

- (I) Where the writ petition seeks enforcement of any of the fundamental rights;
- (II) Where there is failure of principles of nature justice; or
- (III) Where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

**32.** Therefore, if challenge in the writ petition sans these eventualities, the writ petition is not maintainable, and thus this being the position, no interference is called for against the impugned judgment passed by the learned writ Court.



**33.** In view of the above discussion, we do not find any plausible ground made out for indulgence. Accordingly the appeal, being bereft of any merit, is **dismissed**.

(Shahzad Azeem)  
Judge

(Sindhu Sharma)  
Judge

JAMMU  
11.07.2025  
Pawan Angotra

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

