

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

**Case No.:-CM No. 6418/2025 in
WP(C) No. 3395/2023**

Reserved on: 15.10.2025

Pronounced on: 13.11.2025

Uploaded on: 13.11.2025

*Whether the operative part
or full judgment is pronounced?*

Ali Mohammad Mir and ors.

....Petitioner(s)

Through:- Mr. Hakim Suhail Ishtiaq, Advocate.

V/s

UT of J&K and ors.

....Respondent(s)

Through:- Mr. Mohsin Qadri, Sr. AAG.

CORAM: HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

JUDGMENT

CM No. 6418/2025

1. The petitioners/applicants herein have filed the instant application, seeking clarification of the judgment and order dated 25.04.2025 passed by this Court in WP(C) No. 3395/2023 clubbed with WP(C) No. 1255/2023.

FACTS

- (i) The brief facts leading to the filing of the instant application emerging from the record are that the petitioners/applicants herein claim to be the lineal descendants of the erstwhile estate holders of village Pandrethen, whose land measuring 308 Kanals and 09

Marlas was acquired by the then Government in the year 1924 for establishment of the New Cantonment at Sonawar, Srinagar and in respect whereof, the final award dated 24.12.1924 came to be passed, envisaging therein that the land losers would be compensated by way of allotment of 248 kanals and 06 Marlas of land in exchange at Village Patti Wethpora.

- (ii) The petitioners'/applicants' case in WP(C) No. 3395/2023 (supra) is that despite the passing of the award dated 24.12.1924, neither full compensation was paid to the land losers nor were they or their ancestors ever put in physical possession of the exchange land at village Patti Wethpora and that though from time to time, both revenue and Defence Authorities acknowledged the allotment of land in exchange, yet the said process was never taken to its logical conclusion, despite several communications from 1987 onwards, as also various reports of the revenue officers in this regard confirmed that no compensation was paid to the land losers except for 60 Kanals of land @ ₹10 per Kanal and that 248 Kanals and 06 Marlas of the land stood earmarked, to be provided to the land losers of village Pandrethen.
- (iii) It is relevant to mention here that similarly situated land losers of Batwara area and village Pandrethen had earlier approached this Court by way of OWP No. 272/2003, which was disposed of on 15.07.2013, directing the Deputy Commissioner, Srinagar to consider the grievance of the petitioners therein.

(iv) It is also pertinent to mention here that subsequently some alleged tenants of land at village Wethpora filed WP(C) No. 250/2021 before this Court, in which while disposing of the same, this Court vide judgment and order dated 14.07.2022, directed the Deputy Commissioner, Srinagar to identify the rightful claimants, confer the ownership rights upon them qua the land in question and also ensure delivery of possession thereof along with attestation of necessary mutations, whereafter, however, the petitioners/applicants herein challenged the consequential Order bearing No. DCS/ARA(1204)2023-73-75 dated 11.04.2023 passed by the Deputy Commissioner in WP(C) No. 3395/2023, whereby the claim of the land holders came to be rejected by invoking Rule 24-A of the Land Acquisition Rules and limitation on the ground that the said rejection was inconsistent with the directions passed by this Court in the judgment dated 14.07.2022 and is based on extraneous considerations.

2. This Court after hearing the parties, disposed of the said writ petition along with WP(C) No. 1255/2023, which had been filed by those alleged tenants of village Wethpora, who had earlier filed WP(C) No. 250/2021 in terms of the judgment and order dated 25.04.2025, the operative portion whereof reads as under:-

(i) The impugned Order No. DCS/ARA(1204) 2023-73-75 dated 11th of April 2023 passed by the Deputy Commissioner Srinagar is hereby quashed, along with the report of the Committee upon which the impugned order is based upon.

- (ii) The Divisional Commissioner, Kashmir shall undertake a comprehensive assessment of the claim/s submitted by the petitioners as well as the competing claim that may arise from private individuals or other inhabitants of the village Pandrethan, including the petitioners and private respondents in WP(C) No. 1255/2023 in relation to the land measuring 248 Kanals and 6 Marlas situated at Wethpora Pandrethan, upon taking into consideration the relevant revenue records, including the Final Award dated 24th of December, 1924, together with accompanying formal records.
- (iii) Based upon the result of said comprehensive assessment, the Divisional Commissioner shall make a definitive determination regarding the identities of the rightful successors to the original allottees.
- (iv) The Divisional Commissioner shall upon such determination ensure that ownership rights of the formally granted to the legitimate claimants and necessary steps in this regard are taken, including the handing over the possession of the subject land to them inasmuch as attestation of necessary mutation thereof, notwithstanding by the expunction of the entries made earlier or any circulars previously issued thereof, including the Communication dated 13th of February 2020.
- (v) In the event, the Divisional Commissioner concludes that neither the petitioners nor any other claimants from the village Pandrethan are entitled to the ownership of the said land, the Divisional Commissioner shall take immediate steps and necessary action to recover the land in question from the encroachers and make or recommend appropriate use of same for the public purpose strictly in accordance with law.”

3. Consequent upon the passing of the aforesaid judgment and order dated 25.04.2025, a Committee under the Chairmanship of

Tehsildar Panthachowk was constituted on 09.05.2025 by the Divisional Commissioner, Kashmir for implementation of the said judgment and order and the said Committee was directed to verify revenue records, pedigree tables, mutations etc., and to submit a report within 15 days, however, the said Committee failed to submit any comprehensive report and thereafter, on 02.08.2025, a “*Comprehensive Assessment Committee*” was constituted under the Chairmanship of ADC/ADDC Anantnag with Assistant Commissioner (Revenue) as Secretary and Tehsildar Panthachowk, Naib Tehsildar Hatmulla and Tehsildar Pandrethan as its members, which Committee too was directed to finalize its report within one week, which too did not finalize the same and consequently, the judgment and order dated 25.04.2025 remained unimplemented, and in fact the reason for non-implementation is that the Tehsildar Panthachowk has raised an objection that the ancestors of the petitioners/applicants herein were recorded as “Assamis” in the Jamabandi of 1924 and, therefore, were not entitled to ownership of the land acquired from them, which objection according to the petitioners/applicants herein is untenable in law and contrary to the record as well as to the judgment of this Court dated 25.04.2025, which directed conferment of the ownership rights upon the rightful claimants without any such qualification and that the said issue of the ancestors being “Assamis” had neither been raised before this Court during the pendency of the writ petitions (supra) nor was the same an issue at the time of disposal of the said

petitions and, therefore, the revenue authorities including Tehsildar concerned cannot cause any impediment in respect thereof and that having regard to the nature of dispute already resolved by this Court in the judgment and order dated 25.04.2025, having persisted for over a century, a conclusive determination and implementation of the judgment and order dated 25.04.2025 is required to be undertaken in letter and spirit thereof.

Heard learned counsel for the parties and perused the record.

4. It is significant to mention here that the respondents/non-applicants have not chosen to file objections to the instant application and on 15.10.2025, learned counsels appearing for the parties were heard as the learned counsel for the respondents/non-applicants herein stated at bar that the instant application be decided on merits without filing of objections by the respondents/non-applicants.
5. As has been noticed in the preceding paras, the petitioners/applicants herein have contended that the Tehsildar Panthachowk has raised an objection with regard to the status of the ancestors of the petitioners/applicants herein as “Assamis” and that the said contention of the Tehsildar concerned is based on “misappreciation” of law governing the field laid down by this Court in OWP No. 1066/2014 titled as, “*Mohammad Amin Khan and Anr. Vs. State of J&K and ors.*”, decided on 23.04.2019 and in OWP No. 1369/2014 titled as, “*Ali Mohammad Malik and ors. Vs. State of J&K and ors.*”, decided on 25.07.2024.

Perusal of the judgment of this Court passed in *Mohammad Amin Khan's case* (supra), this Court examined the Command Order dated 08.07.1933, issued by His Highness the Maharaja Bahadur, conferring proprietary rights upon all Assamis of Kashmir Province without recovery of any nazrana and held that such conferment was effective from 1st Katik 1990 (October 1933 A.D.), while holding further that once such proprietary rights stood conferred, they could not be diluted or extinguished by any subsequent revenue entry or omission. The relevant extract of the Command Order is reproduced hereunder:-

“His Highness the Maharaja Bahadur has been in receipt of reports submitted by his Ministers about the excellent relations prevailing amongst the members of various communities in the Mirpur district. These relations have been maintained even after acts of incendiarism committed by mischief makers to the religious places belonging to the different communities. His Highness the Maharaja Bahadur has been pleased in the administration of the State and by the perfect law-abiding attitude of the leaders of various communities in dealing with the dangerous situation whenever it arose. His Highness solicitude for agriculturists and agricultural labourers is well known. This has been remonstrated by history of legislation in the State in dealing with problems of rural indebtedness and the economic prosperity of the agriculturists. Orders have already been passed on the lines of the recommendations of the Glancy Commission conferring proprietary rights on the occupancy tenants of Mirpur district on payment of a reasonable nazrana in place of the present malikana. His Highness the Maharaja Bahadur has, in view of the above mentioned attitude of deep loyalty and mutual good will exhibited by members of all communities in Mirpur District orders that proprietary rights will now be conferred on occupancy tenants of the district without payment of any nazrana in place of the present malikana which will cease to be levied.

Orders on similar lines are passed conferring proprietary rights on occupancy tenants including malguzars and assamis holding directly under the State in the rest of the Province of Jammu.

His Highness the Maharaja Bahadur has been further pleased to order that the concession made to the

agriculturists of Mirpur district on account of their good behaviour shall be extended to the assamis of Kashmir Province and proprietary rights will be conferred on the assamis without recovery of any nazrana.

The Zamindars of the Frontier districts of Gilgat and Ladakh have within the period of local disturbances in the Province of Jammu and Kashmir shown exemplary loyalty and devotion to the State and proprietary rights are conferred on the assamis of both the districts without recovery of any nazrana. This will take effect from 1st Katik, 1990.

Until the passing of a Land Alienation Act for the Province of Kashmir and Frontier Districts, the existing prohibition against sale and mortgage will, in the interest of the new proprietors themselves, continue to operate.”

Further perusal of the judgment passed in *Mohammad Amin Khan's case* (supra), this Court has held at paras-15, 20 & 21 as under:-

“15....

A bare perusal of the aforesaid Command order, which then in common parlance was also referred to as Ailan, reveals that the Maharaja/Ruler of the State conferred proprietary rights in the lands on Assamis of Kashmir Province without recovery of any nazrana and that such conferment of proprietary right had to take effect from 1st Katik, 1990, [stated to be corresponding to mid of October, 1933 AD]. This Command order or Ailan did not pertain to Assamis of Kashmir Province only, but also conferred similar rights on occupancy tenants of the District Mirpur; occupancy tenants including malguzars and assamis of Jammu Province; and the assamis of the Frontier Districts of Gilgat and Ladakh. The fact of issuance of this Command order dated 08.07.1933 by the Ruler of the State is not disputed, nor its contents are denied, disputed or doubted.

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20. It is thus, undoubtedly and irrefutably, established that by the said 1933 Order, proprietary rights were conferred on Assamis by the Ruler of the State, which included the petitioners' ancestor named hereinabove with respect to the land in question.

21. It may be observed here that since this conferment of proprietorship/ownership in land was by the Ruler of the State having not only the sovereign power but being also the owner of the State, the right so conferred on the assamis was not and, in fact, is not dependent on, or subservient to, any mutation or entry made by the

revenue authorities of the State in the revenue records. Not only that, the right so conferred on an Assami would not extinguish, nor could it be extinguished, diminished or tampered with, in any manner, by any entry in the revenue records contrary to the above said Ailan/Command order of the Ruler, or by any other process, except acquisition thereof by the State in accordance with law.”

Thus, in view of the aforesaid authoritative pronouncements of this Court in the judgments (supra), the aforesaid objection of the Tehsildar concerned, seemingly, is wholly misplaced, as the conferment of proprietorship qua the land upon “Assamis of Kashmir province” was automatic by virtue of the 1933 Command Order, which rights once vested, could not be extinguished.

6. It is pertinent to mention here that otherwise also, had the ancestors of the petitioners/applicants herein been placed in possession of the exchange land at Patti Wethpora pursuant to the Award of 1924, they would have acquired proprietary rights therein by operation of the 1933 Command Order. Furthermore, the fact that the said ancestors of the petitioners/applicants herein were recorded as owners prior to Mutation No. 27 dated 09.06.2003 (transferring the land in favour of the Cantonment Board) belies the plea of the Tehsildar concerned.
7. Viewed thus, for what has been observed, considered and analyzed herein-above, the instant application deserves to be allowed and is, accordingly, allowed, while clarifying that the persons recorded as Assamis in the Jamabandi of 1924 pertaining to the land in question would be deemed to have been conferred proprietary/ownership rights qua the land in question in terms of

the Command Order dated 08.07.1933 issued by the then Maharaja of Jammu and Kashmir and, accordingly, if the petitioners/applicants herein are found to be the lineal descendants of such land holders, they shall be entitled to ownership and possession of the exchange land situated at Village Patti Wethpora as proprietors thereof in accordance with the directions contained in the judgment and order dated 25.04.2025.

8. *Disposed of.*

(JAVED IQBAL WANI)
JUDGE

JAMMU
13.11.2025
Ram Krishan

