HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

OWP No.2210/2018
CM Nos. 785 & 8871/2021
IA No. 1/2018

Reserved on: 12.02.2026
Pronounced on: 10.03.2026
Uploaded on: 11.03.2026

Whether the operative part or full judgment is pronounced: Full

1. Bansi Lal aged 53 years,
2. Gian Chand aged 73 years
3. Chuni Lal aged 67 years,
(All sons of Punnu Ram R/o Village Dadwar, Tehsil Gandoh, District Doda at present Village Chhaiyal, Tehsil and District Kathua.) …..Petitioner(s)

Through: Mr. R P Sharma, Sr. Advocate with
Mr. Rohit Gupta, Advocate

Vs

1. State of J&K through Commissioner-cum-Secretary Revenue Department, Civil Secretariat, Jammu.
2. J&K Special Tribunal, Jammu.
3. Gurdeep Singh
4. Ashok Kumar
(Both sons of Late Sh. Madho Lal)
5. Amro Devi Wd/o Late Sh. Madho Lal
6. Lata Kumari d/o Late Sh. Madho Lal,
(All residents of Quarter No. 9, Police Family Quarter, Channi Himmat, Jammu.)
7. Moti Lal S/o Punnu Ram R/o Dadwar, Tehsil Gandoh, District Doda. ..Respondent(s)

Through: Ms. Priyanka Bhat, Assisting Counsel to
Mrs. Monika Kohli, Sr. AAG
Mr. Vishal Goel, Advocate

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

JUDGMENT

Prayer:

01. Petitioners, through the medium of this petition, have sought the following relief:

"Issuance of an appropriate writ, direction or order of the nature of

Certiorari to quash and set aside the order dated 17.10.2018, passed by the J&K Special Tribunal, Jammu in case of Revision File No. STJ/73/2018, titled 'Gurdeep Singh and others vs. Bansi Lal and others'."

Brief Facts:

02. The short grievance projected through the medium of the instant petition is that the order passed by the Revisional Court is bad in the eyes of law and is liable to be set aside, whereby the Revisional Authority, while allowing the said revision petition, set aside the impugned order and remanded the matter back to the Tehsildar, Kathua, for *de novo* enquiry with a direction to pass a fresh order after hearing the parties.

03. It is the case of the petitioners that it was not a case of remand as the order passed by the Appellate Authority was correct and the revision was not maintainable and ought to have been dismissed.

04. It is the specific case of the petitioners that the order dated 17.10.2018, which is impugned in the present petition, has been passed by respondent No. 2 in case titled 'Gurdeep Singh & Ors vs. Bansi Lal & Ors', in File No. STJ/73/2018, whereunder by exercising powers of revision it has set aside the judgment of the Additional Deputy Commissioner, Kathua (Commissioner, Agrarian Reforms) passed in appeal against Mutation No. 135 under Section 8 and 132 under Section 4.

05. It has also been urged by the learned counsel for the petitioners that the learned Tribunal has exceeded the scope of its revisional jurisdiction by reversing the order passed by the Appellate Authority. According to the petitioners, the revisional jurisdiction under Section 21(2) of the J&K Agrarian Reforms Act can be exercised only when a question of law or an issue of public interest is involved.

06. It is contended that in the present case, neither any question of law nor any issue of public interest was involved in the revision petition and, therefore, the learned Member of the Tribunal was not competent to interfere with the order passed by the Appellate Authority. It is further submitted that the Tribunal has neither recorded its opinion regarding the existence of any such question of law or public interest nor referred to any such question while exercising revisional jurisdiction.

07. It is also contended that the Mutation No. 132 dated 12.12.1983 under Section 4 of the Agrarian Reforms Act was attested by the Tehsildar, Kathua in favour of Madho Lal, Gian Chand, Chuni Lal, Moti Ram and Bansi Lal, sons of Punnu Ram, in equal shares on the basis of their possession since Kharif 1971 as tenants of Jagan Nath. It is submitted that Jagan Nath himself made a statement for correction of Girdawari for the year 1971 onwards from his name to the names of Madho Lal, Gian Chand, Chuni Lal, Moti Ram and Bansi Lal with respect to Survey No. 173 min and Survey No. 175 min situated at village Chhajiyal, Tehsil and District Kathua, as a consequence whereof they were declared prospective owners under the Agrarian Reforms Act. Thereafter, Mutation No. 135 dated 12.04.1984 under Section 8 of the Agrarian Reforms Act was also attested by the Tehsildar, Kathua in favour of the aforesaid persons, thereby conferring ownership rights upon them in equal shares over the said land which was jointly in their possession.

08. It is further submitted that Madho Lal, having been declared as one of the prospective owners and subsequently conferred ownership rights under the aforesaid mutations, had himself signed the mutation orders and

admitted cultivation of the land from Kharif 1971 onwards. Since Madho Lal had never challenged the said orders during his lifetime, the legal heirs were held to have no right to assail the same. The Appellate Authority thus concluded that the appellants had not approached the Court with clean hands and, finding no illegality in the mutation proceedings, rejected both the appeals.

09. It is the specific case of the petitioners that there was no occasion for the Tribunal to disbelieve the factual findings returned by the Appellate Authority. It is further contended that under Mutations No. 132 and 135 attested under Sections 4 and 8 of the Agrarian Reforms Act respectively, the petitioners were recorded as joint holders of tenancy rights and were thereafter conferred ownership rights jointly in equal shares along with Madho Lal with respect to Survey No. 173 measuring 16 kanals and Survey No. 175 measuring 12 kanals 02 marlas, totalling 28 kanals 02 marlas of land situated at village Chhajiyal.

10. Lastly, it is submitted that the order of remand passed by the J&K Special Tribunal directing a *de novo* enquiry amounts to an illegal exercise of jurisdiction. According to him, the said order is perverse, being based on erroneous principles of law, and therefore cannot sustain the test of judicial scrutiny.

Arguments on behalf of the petitioner:

11. Mr. Sharma, learned Senior Counsel appearing on behalf of the petitioners, has drawn the attention of this Court to the order passed by the Appellate Authority, a perusal whereof reveals that the father of the appellants therein, namely Late Sh. Madhu Lal, was present at the time of

attestation of both the mutations and had admitted the contents of the orders dated 12.12.1983 and 12.04.1984, pertaining to Mutation No. 132 under Section 4 of the Agrarian Reforms Act and Mutation No. 135 under Section 8 of the Agrarian Reforms Act, respectively, as his signatures are available on both the orders.

12. The Appellate Court took note of the aforesaid fact and, while dismissing the appeals preferred by the respondents herein, observed that the legal heirs of Late Sh. Madhu Lal had no right whatsoever to challenge the said orders, inasmuch as the father of the appellants therein, who was declared as one of the prospective owners and was thereafter conferred ownership rights by virtue of the mutation orders referred to in the appeals, had himself signed both the mutations and had admitted cultivation of the land from Kharif 1971 till date.

01. The Appellate Court further observed that Late Sh. Madhu Lal had never challenged the orders passed under Sections 4 and 8 of the Agrarian Reforms Act during his lifetime and, therefore, his legal heirs were estopped from assailing the same. In view of the aforesaid facts, the Appellate Court held that the appellants had not approached the Court with clean hands and, finding no illegality or violation of the rules, dismissed both the appeals preferred by the appellants therein.

02. Feeling aggrieved of the same, the respondents therein preferred revision in terms of the Agrarian Reforms Act against the order dated 17.01.2018 passed by the Additional Deputy Commissioner, Kathua, exercising the powers of Commissioner, Agrarian Reforms, whereby the said authority had dismissed two appeals preferred by the petitioners therein–respondents

herein challenging Mutation No. 132 dated 12.02.1983 and Mutation No. 135 dated 12.04.1984. The Revisional Court, as per record, allowed the revision preferred by the respondents herein, set aside the impugned order and remanded the matter back to the Tehsildar, Kathua, for *de novo* enquiry, with a direction to pass a fresh order after hearing the parties. The aforesaid order passed by the Revisional Authority is the subject matter of the instant petition.

Arguments on behalf of the respondents:

03. *Per contra*, Mr. Vishal Goel, learned counsel appearing on behalf of the respondents, has drawn the attention of this Court to the order passed by the Appellate Authority, a perusal whereof reveals that the Appellate Authority, on the same day, had condoned the delay and, in a "*hush hush*" manner, decided the appeal on merits by referring to the record when, in fact, the original record was neither summoned nor examined. It is submitted that the concerned Additional Deputy Commissioner, exercising the power of the Appellate Authority, was under a legal obligation to call for and examine the original record and only thereafter to record findings based on such record. Having failed to do so, the finding recorded by the Appellate Authority cannot sustain the test of law, as the order passed by the Appellate Authority is without due application of mind and also without examining the original record.

04. The learned counsel further submits that what was required to be done by the Appellate Authority has not been done and, instead, findings have been recorded as if the record had been examined, which is factually incorrect. How and under what circumstances the Appellate Authority could have

examined the record when the Appellate Authority had decided the condonation application and, on the same day, had also heard the appeal on merits, remains unexplained. Thus, from perusal of the record, it appears that the Appellate Authority had not summoned the original record and instead recorded the findings in a "*hush hush*" manner, as per the learned counsel for the respondents.

05. Mr. Goel further submits that the procedural irregularity/illegality which was committed by the Appellate Authority was later on rectified by the Revisional Authority, and the Revisional Authority, while passing the order, had summoned the original record and, after examining the record, recorded a finding that there was infraction of Rule 50 of the Agrarian Reforms Rules and also that the Rules framed under the Agrarian Reforms Act were not adhered to at the time of attestation of the impugned mutations. In addition, the Revisional Authority has recorded a finding that all the violations of the rules, although raised in the memo of appeal before the Appellate Authority, were not considered by the Appellate Authority, which, according to the Revisional Authority, constituted questions of law.

06. Thus, according to Mr. Goel, the arguments advanced by Mr. Sharma that the Revisional Authority has neither recorded its opinion regarding the existence of any question of law or public interest involved in the case is factually incorrect when such finding has already been recorded about the existence of a question of law while passing the aforesaid order. Thus, the averment to that extent by the petitioner is factually incorrect and liable to be rejected. Mr. Goel has further drawn the attention of the Court to the

finding recorded by the Revisional Authority that though Late Sh. Madho Lal was in possession of land in Kharif 1971, the co-sharer who was not in possession of the land in Kharif 1971 cannot claim share on the basis of other co-sharers by placing reliance upon the judgment passed by this Court, and accordingly, by assigning cogent reasons and examining the original record, the revision petition was allowed, the impugned order was set aside and the matter was remanded back to the Tehsildar, Kathua, for *de novo* enquiry with a direction to pass a fresh order after hearing the parties.

07. Mr. Goel has further submitted that the Revisional Authority, while minutely examining the original record, recorded a finding that the Appellate Authority had incorrectly observed that Late Sh. Madho Lal had put his signatures on both the mutations, whereas the record revealed that Late Sh. Madho Lal had affixed his thumb impression at the time of attestation of the mutations. This clearly demonstrated, according to the learned counsel, that the Appellate Authority had not properly examined the original record and had recorded findings contrary to the material available on record. Thus, the Revisional Authority, after examining the original record, rightly interfered with the order passed by the Appellate Authority.

08. It has also been submitted by Mr. Goel that the Revisional Authority, upon examination of the record, has further recorded a finding that mutations in question were attested at headquarters and not on spot, which was violative of Rule 14 of the Agrarian Reforms Rules read with Standing Order 23-A governing the procedure for attestation of mutations. According to the learned counsel, these violations had been specifically raised before the

Appellate Authority but were not considered, and the Revisional Authority, after noticing the said violations of statutory provisions and procedural irregularities, rightly allowed the revision petition and remanded the matter to the Tehsildar, Kathua, for *de novo* enquiry and for passing a fresh order after hearing the parties.

09. Thus, according to Mr. Goel, the order passed by the Revisional Authority is perfectly legal, and the challenge to the same is ill-founded. He contends that the challenge to the impugned order is devoid of merit and that the writ petition deserves to be dismissed. He further submits that since no prejudice has been caused to the petitioner, the writ petition is liable to be dismissed, as the impugned order is merely an order of remand. It was also submitted that the Revisional Authority has already recorded a finding that Standing Order 23-A has been violated.

Arguments by way of rebuttal:

10. Mr. Sharma, learned counsel appearing on behalf of the petitioners, in rebuttal, has submitted that the Revisional Authority could have exercised its powers only in the eventuality of the existence of any question of law or public interest involved in the case. Merely stating in the impugned order that a question of law is involved does not satisfy the statutory requirement and, thus, according to Mr. Sharma, the revision ought not to have been entertained and the impugned order cannot sustain the test of law and is liable to be quashed.

11. He further contended that existence of a question of law or public interest is sine qua non for exercising revisional jurisdiction in conformity with Section 21(2) of the Agrarian Reforms Act and the Revisional Authority

is required to record findings in that regard. Thus, according to Mr. Sharma, the Revisional Authority has exceeded its jurisdiction while interfering with the judgment of the Appellate Authority and, on this ground alone, the impugned order cannot sustain the test of law and is liable to be quashed.

Legal Analysis:

12. Heard learned counsel for the parties and perused the material placed on record.

13. At the outset, this Court finds considerable force in the contentions advanced by the learned counsel for the respondents that the impugned order passed by the revisional authority is merely an order of remand directing a *de novo* enquiry by the Tehsildar Kathua. The revisional authority has neither adjudicated upon the rights of the parties nor has it conclusively determined the dispute between them. The effect of the order is only that the matter has been returned back to the competent authority for fresh consideration after examining the record and hearing the parties. It is settled principle of law that courts while exercising writ jurisdiction do not interfere with the orders of remand particularly when such orders do not finally determine the rights or cause any grave injustice or prejudice to either of the parties. When a matter is remanded the authority to whom it is assigned is required to re-examine the issue afresh after affording equal opportunity of being heard to the concerned parties. Thus, the parties retain full liberty to place their case before the competent authority and establish their respective claims. In the present case, the revisional authority has not adjudicated the rights of the parties,

but has merely set aside the order of the appellate authority directing the Tehsildar to conduct a fresh enquiry after examining the record. Such an order cannot be said to have deprived the petitioners of any of their substantive rights. On the contrary, they will have full opportunity before the Tehsildar during the *de novo* enquiry to demonstrate the legality of the mutations in question. Therefore, the grievance projected by the petitioner against the remand order is premature as the matter has yet to be finally adjudicated.

14. This Court in **"Mohd. Nasir Ud Din Petitioner vs. Aftab Ahmad Khan & Anr."**, OWP No. 182/2004, decided on 12.06.2012, while dealing with the scope of interference by this Court in writ jurisdiction against an order of remand passed by the revenue authorities, held as under:

> *"5. Concerned Tehsildar had to make the order while following the mandate of Order 23A which appears to have not been done. The order is a remand order and does not affect the rights of any party. Case has been remanded for enquiry, so it is for the Revenue Agency and respondent No. 1 to appear before Tehsildar and project their case.*
>
> *7. This court, in series of cases, has held that when the writ jurisdiction can be invoked, obviously the case in hand is not one of such cases."*

15. It goes without saying that the writ jurisdiction is meant to correct the jurisdictional errors or manifest illegality resulting in miscarriage of justice. It is not intended to be invoked against orders which merely facilitated the proper adjudication of disputes. Viewed from this perspective, challenge to the impugned order of remand cannot be sustained.

16. The main contention advanced by the learned counsel for the petitioners is that the revisional authority could have exercised jurisdiction under

section 21(2) of the Agrarian Reforms Act, only when, a *'question of law'* or *'public interest'* is involved. According to the learned counsel for the petitioners, no such question existed in the present case, therefore the order of revisional authority is without jurisdiction. However, a careful perusal of the order of the revisional authority reveals that the revisional authority after summoning and examining the original record noticed several serious infirmities in the order passed by the appellate authority.

17. The Revisional Authority has categorically recorded the findings that the Appellate Authority has decided the appeal without summoning and examining the original record and the findings which were recorded were contrary to the material available on record. The Revisional Authority further noticed that the Appellate Authority failed to adhere to the procedure contemplated under Rule 50 of the Agrarian Reforms Rules, which casts a duty upon the appellate authority to properly examine the record and conduct enquiry, where the correctness of entries relating to personal cultivation is in dispute. Such findings clearly disclose the existence of a substantial question of law relating to legality and procedural compliance, thereby justifying the exercise of revisional jurisdiction. The revisional jurisdiction is intended to ensure that subordinate authorities act within the limits of law and follow the procedure prescribed while exercising their powers. When an order is passed without examining the record or by overlooking the relevant statutory provisions, the same amounts to a legal infirmity warranting interference.

18. Since Rule 50 of the Agrarian Reforms Rules also has a direct bearing

on the controversy involved in the present petition, the same is reproduced hereunder:

> *[50. Place of hearing.— The officer competent to hear appeal may, as far as practicable, hear such appeal at the headquarters of the district or Tehsil to which it relates:*
> *Provided that where correctness of an entry relating to personal cultivation of land is in dispute, the objection may, as far as practicable, be disposed of at site in presence of the general village body and no costs for serving notice on the villagers to attend shall be demanded from any party].*

19. In the present case, the revisional authority after minutely examining the record has observed that the appellate authority had recorded the findings regarding the signatures of Late Sh. Madhu Lal on the mutations orders whereas the original record reveals that he had affixed his thumb impression instead of signatures being illiterate. This discrepancy itself shows that the appellate authority has not examined the original record with the required degree of scrutiny. Such an error is not merely a factual irregularity but goes to the root of the legality of the decision. Therefore, the revisional authority was justified in holding that the matter involved question of law requiring interference in revision.

20. This Court in **"Atta Mohd. Katoch vs. J&K Special Tribunal and others",** LPAOW No. 251/2002 along with CMA No. 284/2002, decided on 12.05.2015, while explaining the scope of revisional jurisdiction under Section 21 of the Agrarian Reforms Act, held as under:

> *"13. ....According to Section 21 of the Act 1976, the Revisional authority has the power to exercise revisional jurisdiction if it finds that a question of law or public interest is involved in the case.*
>
> *14. Applying the provisions of the Agrarian Reforms Act to a piece of land, which does not at all attract the provisions of the Act or attesting a mutation contrary to the provisions prescribed for attestation of such mutations does involve a question of law and to that extent, there was nothing wrong in the revisional*

authority exercising its revisional jurisdiction and remanding the matter back to the Tehsildar to conduct a denovo enquiry."

21. Another aspect which is of significance in the present case is the manner in which the appellate authority disposed of the appeals filed by the respondents. The record reveals that the appellate authority condoned the delay and on the very same day proceeded to decide the appeals on merits.

22. The law relating to condonation of delay requires that the court must first examine whether sufficient cause has been shown for the delay before embarking upon an examination of the merits of the case. In this regard, the Hon'ble Apex court in '**Thirunagalingam Vs. Lingeswaran & Anr.', 2025 INSC 672,** has held as under :

"*31. It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.*

32. Further, this Court has repeatedly emphasized in several cases that delay should not be condoned merely as an act of generosity."

23. The same principle has been reiterated by the Hon'ble Supreme Court in "**Commissioner, Nagar Parishad, Bhilwara Vs. Labour Court, Bhilwara And another"**, **(2009) 3 SCC 525**, has held as under:

"*....4. While rejecting the application for condonation of delay, the High Court had considered the merits of the appeal and then rejected the application for condonation of delay.*

> *5. While deciding an application for condonation of delay, it is well settled that the High Court ought not to have gone into the merits of the case and would have only seen whether sufficient cause had been shown by the appellant for condoning the delay in filing the appeal before it."*

24. Furthermore, it is important to note that the appellate authority recorded its findings on the basis of the record without actually summoning or examining the original record. Such failure to examine the record renders the entire decision arbitrary and legally unsustainable. The revisional authority therefore rightly concluded that the order of the appellate authority suffered from procedural infirmity and lack of proper application of mind, thereby, necessitating interference in revision. Consequently, the decision of the revision authority to set aside the order of the appellate authority and remit the matter for fresh consideration cannot be faulted.

25. The revisional authority has also recorded a finding that the mutations in question were attested at headquarters instead of being attested on the spot, which was contrary to the requirements of Rule 14 of the Agrarian Reforms Rules read with Standing Order 23-A, which mandates that mutation proceedings are to be conducted on spot in the village where the land is situated. In the present case, the revisional authority observed that the allegations regarding illegal attestation of mutations at headquarters and violation of statutory procedure had been specifically raised before the appellate authority but were not examined at all.

26. The respondents had specifically raised before the Appellate Authority the issue of gross violation of the procedure prescribed under Standing

Order 23-A read with Rule 14 of the Agrarian Reforms Rules governing the attestation of mutations. Despite these specific objections having been raised in the memo of appeal, the Appellate Authority failed to advert to or consider the same and proceeded to decide the matter in a hurried manner without examining the legality of the mutation proceedings in the light of the statutory procedure applicable thereto. The relevant averments made in the memo of appeal are as under:

> **"5. That again the impugned order has been made ex-parte without giving any notice to the appellant in a concealed manner against the principles of natural justice and in violation of Standing Order 23-A and Rule 14(2), where it is mandatory for the revenue official to give publicity regarding the attestation of mutation and to avoid ex-parte mutation, and the order of mutation itself shall show that sufficient steps were taken to the persons against whom such proceedings have been taken in support of the contention of the petitioner.**
>
> **6. That the impugned mutation has been passed at HQ and not at the village where the said land has been situated just to confer undue benefit upon the respondents, as one of the brothers of the respondents namely Bhag Singh, who was serving as a revenue official, has connived with the respondents and got the impugned mutation attested at a place which is more than 20 Kms away from the spot, same being violative of provisions of law, as the law creates an obligation on the mutating officer to attest every mutation and record a finding thereon only after affording an opportunity of being heard to all concerned and after conducting enquiry on spot. The mutating officer in the instant case has passed the mutation arbitrarily, perversely and illegally, with material irregularities and utter disregard to the sound principles of law, as has been held by the Hon'ble J&K Special Tribunal in a Revision Petition titled Des Raj and Ors. vs State of J&K, reported in J&K Judgments, page 803 of 2003, Vol. (I), *"Mutation attested in absence of petitioner is bad in law and liable to be set aside."*Accordingly, appeal was accepted and case was remanded**

> **back to Tehsildar for passing fresh order. Mutation attested in absence of the petitioner is bad in law and liable to be set aside."**

27. Such failure to consider a material issue affecting the legality of the proceedings itself constitutes a legal error. Therefore, the revisional authority was right in holding that the matter required reconsideration after examining whether the mutation proceedings were conducted in accordance with the statutory rules.

28. In order to appreciate the controversy in its proper perspective and to examine the legality of the mutation proceedings in question, it would be appropriate to notice the relevant statutory provision governing the procedure for attestation of mutations under the Agrarian Reforms Rules. Rule 14 of the Agrarian Reforms Rules, which has a direct bearing on the issue involved in the present petition, reads as under:

> *"14. Procedure and competence for attesting mutations. — (1) Mutations under this Chapter shall, subject to the provisions herein contained, be attested, in accordance with the procedure provided by Standing Order No. 23-A, by a Revenue Officer, in or near the village to which these pertain.*
>
> *[Provided that no Naib-Tehsildar shall attest any disputed mutation or any other such mutation where change or correction of any entry of Khasra Girdawari is involved unless he is empowered for the said purpose by the Commissioner appointed under section 18 of the Act.]*
>
> *(2) Ex parte proceedings on mutations, even if permitted shall be avoided, as far as possible, and where such proceedings are taken in accordance with law, the mutation order and the record accompanying such mutation, shall show that sufficient steps were taken to give notice to the person against whom such proceedings have been taken."*

29. A plain reading of the aforesaid provision makes it abundantly clear that mutation proceedings under the Agrarian Reforms Act are required to be

conducted in accordance with the procedure prescribed under Standing Order 23-A and ordinarily in or near the village where the land in question is situated so as to enable the revenue officer to verify the claims of the parties on the spot and in their presence.

30. In the present case, the record reveals that the mutations in question were attested at the headquarters instead of being attested on the spot in the village where the land is situated. Such a course adopted by the mutating authority is clearly contrary to the procedure mandated under Rule 14 read with Standing Order 23-A and renders the mutation proceedings vulnerable in law, particularly when the legality of such proceedings is called into question before the competent forum. It is a settled principle of law that where the law prescribes a specific manner for performing an act, the same must be adhered to strictly, and any deviation from the prescribed procedure renders the action legally unsustainable.

31. The above principle has been recognized by the Apex Court in '**Meera Sahni Vs. Lieutenant Governor of Delhi and others', (2008) 9 SCC 177,** held as under:

> *"35. It is by now a certain law that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed and in no other manner. In this connection we may appropriately refer to the decision of this Court in Babu Verghese v. Bar Council of Kerala (1999) 3 SCC 422 wherein it was held as under:*
>
> *"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor (1875) 1 Ch D 426 which was followed by Lord Roche in Nazir Ahmad v. King Emperor (1936) 63 IA 372, AIR 1936 PC 253 (2) who stated as under: (IA pp. 381-82) 'where a power is given to do a certain thing in a certain way, the*

thing must be done in that way or not at all.'

32. This Court in **"Puran Chand and others Vs. J&K Special Tribunal and others",** WP(C) No. 1327/2020, decided on 04.09.2024, while dealing with the scope of revisional jurisdiction under the Agrarian Reforms Act and the legality of mutation proceedings conducted in violation of Standing Order 23-A, has held as under:

> *"6. Perusal of the record reveals that mutation Nos. 570 and 582 supra attested in favour of the father of the petitioners herein under section 4 and 8 of the Act, 1976 indisputably have had not been attested in line and tune with the provisions of the Standing Order 23-A which standing order provides for attestation of mutations in the Deh (village) wherein the land is situated which requirement is aimed at to determine the rights and interests of the parties on spot in presence of the parties. In view of the aforesaid position obtaining in the matter inasmuch as the claims and counter claims lodged by the parties against each other qua the land in question, the Revisional Forum-respondent 1 herein thus on this question of law falling under Section 21 of the Act of 1976 has rightly set aside the mutations and directed holding of a de novo enquiry by the concerned Tehsildar and for passing of fresh orders after affording an opportunity of hearing to the parties leaving it open to the parties to project their respective claims before the Tehsildar and in turn requiring the Tehsildar concerned to adjudicate upon the same in accordance with law.*
>
> *8. Having regard to the aforesaid position and principle of law inasmuch as the facts noticed in the preceding paras, this Court is of the considered opinion that interference under Article 226 of the Constitution is not warranted in the matter, firstly, on the ground of nature of the order passed by the Tribunal being admittedly an order of remand and secondly, in view of the nature of the dispute raised by the parties herein being disputed facts."*

33. Similarly, this Court in **"Ab. Salam Bangroo Vs. Financial Commissioner and another"**, OWP No. 157/2005, decided on 27.06.2016, while emphasizing the importance of adherence to the statutory procedure governing mutation proceedings, held as under:

> *"16) Attestation of mutation is not a routine matter. It should not offend the procedure prescribed under Standing Order 23- A nor should it be attested on the basis of any document or otherwise, which shall be in contravention of any law."*

34. The aforesaid statutory provision as well as the judicial precedents noticed hereinabove clearly emphasize that mutation proceedings under the Agrarian Reforms Act are required to be conducted strictly in accordance with the procedure prescribed under Standing Order 23-A read with Rule 14 of the Agrarian Reforms Rules.

35. The requirement of conducting mutation proceedings on spot in the village where the land is situated is intended to ensure transparency in the process and to enable the revenue officer to ascertain the factual position regarding possession and cultivation in the presence of the concerned parties. Any departure from such procedure, particularly where mutation is attested at the headquarters instead of on spot, would naturally invite scrutiny by the competent forum.

Conclusion:

36. In view of the foregoing discussion and upon a careful consideration of the pleadings, record and the settled legal position governing the field, this Court is of the considered opinion that the impugned order passed by the Revisional Authority does not suffer from any illegality, perversity or jurisdictional error warranting interference by this Court in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India. On the contrary, the record reveals that the Revisional Authority, after summoning and examining the original record, has rightly noticed the procedural irregularities committed by the Appellate Authority,

particularly the failure to examine the original record and the non-adherence to the statutory procedure governing mutation proceedings. The Revisional Authority was therefore fully justified in exercising its revisional jurisdiction under Section 21 of the Agrarian Reforms Act and in remanding the matter to the competent authority for a fresh enquiry in accordance with law.

37. It is trite that an order of remand which merely facilitates proper adjudication of the dispute and affords opportunity to the parties to establish their respective claims cannot ordinarily be interfered with in writ jurisdiction unless it results in manifest injustice or jurisdictional error, which is conspicuously absent in the present case. The petitioners shall have full opportunity before the Tehsildar during the *de novo* enquiry to place their case and demonstrate the legality of the mutations in question. Consequently, this Court finds no merit in the present petition.

38. Accordingly, the writ petition being devoid of merit is dismissed along with connected applications.

39. Registry is directed to return the records of the case to the concerned authorities forthwith.

(WASIM SADIQ NARGAL)
JUDGE

Jammu:
10.03.2026
Vijay

Whether the order is speaking: Yes
Whether the order is reportable: Yes