

(2017) 05 J&K CK 0034

In the Jammu And Kashmir High Court

Case No : 04 of 2017 MP No 03 of 2017 MP No 02 of 2017

Mohammad Rajab Dar & Ors.

APPELLANT

Vs

State of JK & Ors.

RESPONDENT

Date of Decision : 17-05-2017

Acts Referred:

Citation : (2017) 05 J&K CK 0034

Hon'ble Judges : Ramalingam Sudhakar

Bench : SINGLE BENCH

Advocate : Moksha Kazmi

Final Decision : Disposed Of

Judgement

1. The writ petition has been filed for the following reliefs:

a.) That a writ of Mandamus may be issued in favour of the petitioner and against the respondents directing the respondents not to acquire,

possess land of the petitioners or demolish boundaries of the land or cut down the Standing trees/ orchards or dispossess the petitioners from the

land shown in para (7) falling under Khasra Nos. 1575 (Aalif), 1705 (Bay), 1844 (Aalif), 1844 (Bay, 1328, 1327, 1312 etc situated at village

Seerjageer Sopore without following due procedure of law.

b.) That a writ of mandamus may be issued in favour of the petitioner and against the respondents directing the respondents to pay the petitioners

full compensation for the standing trees, fruit bearing trees, willows & popular trees cut down by the respondent department arbitrarily from the

above said land, Respondents be also directed to pay the petitioners interest on compensation amount at the rate of 12% till amount is released,

Fur ther appropriate compensation may be given to the petitioner on account of

mental, social and economical losses.

(c) That the respondents no 2, 4 & 7 be directed to declare the petitioners prospective owners of the land shown in Para 7 of the petition and

falling under Khasra Nos. 1575 (Aalif), 1705 (Aalif), 1705 (Bay), 1844 (Aalif), 1844 (Bay), 1328, 1327, 1312 etc situated at village Seer- jageer

Sopore, on the basis of the long possession of more than 50 years & respondents be directed to incorporate the above said land in revenue

records in the names of the petitioners under rules. .

2. The petitioners claim to be in possession of land measuring 300 Kanals falling under Khasra Nos. 1575 (Aalif), 1705 (Aalif), 1705 (Bay), 1844

(Aalif), 1844 (Bay), 1328, 1327, 1312 etc. situated at Village Seerjageer-Sopore. It is stated that as per the revenue records, the petitioners are

cultivating the said land from the year 1968 belonging to the Irrigation and Flood Control Department. The petitioners also rely upon a civil suit

filed before the Court of Sub-Judge, Sopore, stating that they are in possession of the aforesaid land. It is also the case of the petitioners that the

Respondent Department itself filed a suit before the Sub-Judge, Sopore, on 17th May, 1980, which was dismissed by the Civil Court. The

petitioners contend that on 27th December, 2016, the official respondents tried to dispossess the petitioners from the aforesaid land and are cutting

the standing trees and orchards of the petitioners worth crores of rupees. It is pleaded that the respondents are also demolishing the boundaries of

the aforesaid land by filling the same with earth. On this premise, the instant writ petition has been filed.

3. Ms. Moksha Kazmi, learned AAG, states that the petitioners are illegal occupants of the aforesaid land and have no right over the said land.

4. Since the petitioners, 101 in number, belong to a particular area and in order to ensure that the right of any individual is not affected and, at the

same time, the property of the State is not illegally encroached upon by illegal occupants, the respondents are duty bound to conduct spot

verification of the property in question, take the grievance of the petitioners into consideration and decide the issue on its own merits. The stage has

not come for this Court to adjudicate upon the claim based on disputed facts as pointed out by petitioners as also by learned AAG that the

petitioners are illegal occupants of the aforesaid land and have no right over the

said land.

5. In this view of the matter, this writ petition is admitted to hearing and is disposed of with a direction to the Divisional Commissioner, Kashmir-

Respondent No.2 to ensure spot verification of the aforesaid property, verify the claim of the petitioners and decide the same on its own merits

within a period of eight weeks from the date of receipt of copy of this order, after giving the Department of Irrigation and Flood Control an

opportunity to explain that the said property belongs to them as per the records.

6. Writ petition along with connected MP(s) stands disposed of in the above terms.