

(1999) 12 J&K CK 0014
In the Jammu And Kashmir High Court
Case No : O.W.P. No. 642 of 1999

Mst. Noora Begum

APPELLANT

Vs

Tehsildar, Bandipora Dist. Baramulla and Others

RESPONDENT

Date of Decision : 01-12-1999

Acts Referred:

Constitution of Jammu and Kashmir, 1956 — Section 103

Citation : AIR 2000 J&K 72

Hon'ble Judges : Bashir-Ud-Din, J

Bench : Single Bench

Advocate : N.A. Malik, for the Appellant;

Final Decision : Dismissed

Judgement

Syed Bashir-ud-Din, J.—Petitioner alleges that she is in possession of 1 Kanal and 13 marlas of land under Khasra No. 654. allotted to her

decades back by the State Government. Respondent No. 5 taking advantage of her being widow with minor children encroached over on a

portion of this land to put in place a cow-shed. Petitioner took up the matter with Tehsildar Bandipora. Sub-Divisional Magistrate, Sopore and

Additional Commissioner, Srinagar-Kmr. As nothing concrete emerged she approached Divisional Commissioner respondent No. 4, The

Divisional Commissioner through Additional Commissioner, Kashmir asked Tehsildar to take steps in the matter and for the purpose letter dated

23-8-1999 (Annexure PD) was addressed to Tehsildar Bandipora. As Tehsildar has not taken any steps petitioner has come in writ seeking

mandamus to Tehsildar for removal of the encroachment pursuant to orders of his higher ups.

2. The counsel for the petitioner concedes that petitioner has alternative remedy

available to seek redressal of her grievances but submits that the writ was filed as it was speedy remedy in the matter. Perusal of the record shows petitioner is recorded in possession of the land in Shajra Khasra Annexure D, but the orders of allotment, nature and kind of occupation and continuation and the period for which petitioner has continued in possession are matters not coming forth from record. There is no material on record to show the status and the nature of occupation of parcel of land by respondent No. 5, out of the total land claimed by the petitioner, allotted to her. The extent of land encroached upon as also the period of occupation by respondent No. 5 is not clear from the annexure placed along with. All these matters can be examined on evidence in an enquiry.

Petitioner as concedes by her counsel has effective alternative remedy available under domestic laws where all aspects of the matter can be equitably, fairly and effectively taken care of.

3. From Annexures A, B, and C placed in support of the petition in the context of allegations in the writ petition, an impression is given that the

Tehsildar Bandipora (respondent No. 5) is lagging behind and unduly delaying follow up action of the orders of his highups respondents 2 to 4.

This aspect of the matter can be better taken care of by pursuing the matter at the appropriate level in the administrative echelons of the revenue

department, whether the orders forming annexures are administrative or otherwise in nature, is again a matter for the Executive and not the writ

Court.

4. For the aforementioned reasons the petition is dismissed in limine.