Sr. No.227

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP (C) No. 1103/2023
CM No. 2568/2023
CM No. 741/2025
CAV No. 380/2023

Reserved on:20.07.2026
Pronounced on:23.07.2026
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Whether the operative part or full judgment is pronounced: ***Full***

Mohd. Yaqoob, age 47 years,
S/O Late Sain Mohd, R/O Channi Kamala,
Tehsil and District Jammu. …..Petitioner(s)

Through: Mr. Rakesh Sharma, Advocate

Vs

1. Financial Commissioner (Revenue)Jammu and Kashmir/Commissioner Agrarian Reforms J&K Rail Head Complex, Trikuta Nagar, Jammu.
2. The Residents of Channi Kamala at present Extension No. 3 Bhawani Vihar Trikuta Nagar, Jammu

….. Respondent(s)

Through: Mr. Meharban Singh, AAG for R-1
Mr. Pranav Kohli, Sr. Advocate with
M/s Aftab Malik& Muddassir Zubair, Adv R-2

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

JUDGMENT

1. Through the medium of the instant writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has called into question the order dated 27.02.2023 passed by the learned Financial Commissioner (Revenue), J&K, whereby the revision petition filed by respondent No. 2 came to be allowed, the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner, Jammu was set aside and Mutation No. 39 dated 10.03.1959 pertaining to Estate Channi Kamala, Tehsil Bahu, District Jammu was upheld.

BRIEF FACTS

2. The controversy in the present petition relates to land measuring 48 kanals and 03 marlas comprised in Khasra Nos. 73, 85 and 88 min situated at Estate Channi Kamala, Tehsil Bahu, District Jammu. The case projected by the petitioner is that the said land, after extinguishment of the rights of the erstwhile landlords under the provisions of the Jammu and Kashmir Big Landed Estates Abolition Act, vested in Shera, who was an occupancy tenant. It is further pleaded that, after the demise of Shera, the property devolved upon his successors and, by way of successive mutations of inheritance, ultimately came to vest in the petitioner's father, Sain Mohd., and thereafter in the petitioner by virtue of Mutation No. 1674.

3. The dispute essentially revolves around Mutation No. 39 dated 10.03.1959, whereby ownership rights in respect of the land in question were conferred upon Abdul Rahim and Mohd. Hussain. According to the petitioner, Abdul Rahim was neither a member of the family of Shera nor otherwise entitled to claim ownership under the provisions of the Jammu and Kashmir Big Landed Estates Abolition Act. It is further alleged that Mutation No. 39 suffered from various legal and factual infirmities, including interpolation in the mutation register, chronological inconsistencies in the revenue record and its attestation in favour of Mohd. Hussain despite his alleged demise prior to the date of attestation.

4. Aggrieved of Mutation No. 39, the petitioner's father, Sain Mohd., preferred an appeal before the learned Additional Deputy Commissioner, Jammu. It is a matter of record that vide order dated 21.05.1991, the learned Additional Deputy Commissioner allowed the appeal and set aside Mutation No. 39. According to the petitioner, the said order was subsequently implemented by attestation of Mutation No. 596 in favour of Sain Mohd. and, upon his demise, Mutation No. 1674 came to be attested in favour of the petitioner.

5. Respondent No. 2 thereafter instituted a revision petition before the learned Financial Commissioner on 16.11.2020 challenging the aforesaid order dated 21.05.1991. The case set up in the revision petition was that the persons who had acquired interest in the land through registered sale deeds executed by Abdul Rahim were necessary parties to the proceedings before the learned Additional Deputy Commissioner but had not been impleaded. It was further pleaded that knowledge of the order dated 21.05.1991 was acquired only in the year 2017, when the concerned revenue authorities declined to issue revenue extracts on the basis of the said order.

6. The learned Financial Commissioner, by the impugned order dated 27.02.2023, allowed the revision petition, condoned the delay in its institution, held that the purchasers were necessary parties who had been condemned unheard before the learned Additional Deputy Commissioner and further concluded that the learned Additional Deputy Commissioner had failed to consider the issue of limitation before entering into the merits of the appeal. Consequently, the order dated 21.05.1991 was set aside and Mutation No. 39 dated 10.03.1959 was upheld.

7. Aggrieved of the aforesaid order, the petitioner has approached this Court by way of the present petition, contending, inter alia, that the revision petition itself was not maintainable and had been entertained after an inordinate and unexplained delay. It is further contended that the learned Financial Commissioner travelled beyond the scope of revisional jurisdiction while deciding the matter on merits and that the impugned order suffers from errors of law warranting interference by this Court.

ARGUMENTS ON BEHALF OF THE PETITIONER

8. Mr. Rakesh Sharma, learned counsel for the petitioner submits that if the law of limitation was applicable while challenging Mutation No. 39 before the learned Additional Deputy Commissioner, the same principle would equally govern the revision petition preferred by respondent No. 2, which was admittedly instituted after nearly 29 years. According to the learned counsel, respondent No. 2 could not claim a different yardstick in the matter of limitation.

9. He further submits that the learned Financial Commissioner exceeded the scope of revisional jurisdiction while setting aside the order passed by the learned Additional Deputy Commissioner. According to the learned counsel, the revisional authority travelled beyond the limited jurisdiction vested in it by reassessing the merits of the controversy and virtually substituting its own findings for those recorded by the appellate authority, which, according to the petitioner, was impermissible in law.

10. It is further submitted that the learned Financial Commissioner erred in entertaining the revision petition at the instance of respondent No. 2. It is argued that the revision petition was preferred in the name of "Residents of Channi Kamala" without disclosing the legal basis for instituting such proceedings or establishing the representative capacity in which the revision had been filed. According to the learned counsel, the maintainability of the revision petition itself was, therefore, liable to be rejected.

11. Mr. Sharma vehemently argued that the impugned order passed by the learned Financial Commissioner is legally unsustainable and deserves to be quashed. He contended that the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner deserves to be restored, as Mutation No. 39 had, according to the petitioner, been attested in favour of Abdul Rahim and Mohd. Hussain, despite Mohd. Hussain having allegedly expired prior to the date of its attestation, which, according to the petitioner, rendered the mutation void in law.

12. Learned counsel for the petitioner, therefore, submits that the impugned order dated 27.02.2023 passed by the learned Financial Commissioner is legally unsustainable and deserves to be quashed. It is, accordingly, prayed that the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner, Jammu be restored.

ARGUMENTS ON BEHALF OF THE RESPONDENTS

13. *Per Contra*, it has been vehemently argued by the learned Senior Counsel appearing for respondent No. 2, Mr. Pranav Kohli, that the order passed by the learned Financial Commissioner is legally sustainable in the eyes of law, inasmuch as the mutation, which had been attested as far back as on 10.03.1959, came to be challenged before the learned Additional Deputy Commissioner after more than three decades without any plausible explanation for such inordinate delay or, for that matter, without filing any application seeking condonation thereof.

14. It is contended that no finding whatsoever came to be recorded by the learned Additional Deputy Commissioner on the issue of limitation and yet the said authority proceeded to set aside Mutation No. 39. Feeling aggrieved thereof, respondent No. 2 preferred a revision petition before the learned Financial Commissioner on 16.11.2020 and the delay in filing the said revision stands duly explained and has been specifically dealt with by the learned Financial Commissioner in paragraph 6 of the impugned order.

15. Thus, according to Mr. Pranav Kohli, learned Senior Counsel, the learned Financial Commissioner has duly considered all the issues raised in the revision petition, including the question of limitation in preferring the revision after nearly 29 years, and has assigned cogent reasons while condoning the delay and deciding the matter.

16. It is further submitted that the learned Financial Commissioner has also taken note of the fact that the purchasers under the registered sale deeds were necessary parties to the proceedings before the learned Additional Deputy Commissioner. However, despite being aware of the registered sale deeds executed as far back as in the year 1981, the petitioner deliberately chose not to implead the purchasers as party respondents in the appeal preferred before the learned Additional Deputy Commissioner after a lapse of more than 30 years.

17. According to the learned Senior Counsel, this fact was very much within the knowledge of the petitioner and yet, for reasons best known to him, the purchasers were not arrayed as party respondents before the learned Additional Deputy Commissioner, resulting in an order being passed behind their back.

18. Learned Senior Counsel further submits that respondent No. 2 came to know of the order dated 21.05.1991 only when the concerned Patwari declined to issue the requisite revenue extract on the ground that the order passed by the learned Additional Deputy Commissioner had affected the revenue record. It was only thereafter that the revision petition came to be preferred before the learned Financial Commissioner.

19. When a query was raised by this Court as to how and under what circumstances the revision petition had been instituted under the title "Residents of Channi Kamala", Mr. Pranav Kohli submitted that the persons in whose favour the registered sale deeds had been executed were residents of Channi Kamala and had, according to the learned Senior Counsel, passed a resolution and instituted the revision petition feeling aggrieved of the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner.

20. Another query was put to the learned Senior Counsel as to what constituted the fresh cause of action for challenging the order dated 21.05.1991 after nearly 29 years. In response, it was submitted that the purchasers, who had acquired the suit land through registered sale deeds, came to know of the said order only in the year 2017 when the concerned Patwari refused to issue the requisite revenue extract on the strength of the order passed by the learned Additional Deputy Commissioner.

21. It is, thus, submitted that the delay in filing the revision occurred because respondent No. 2 was never a party to the proceedings before the learned Additional Deputy Commissioner and could obtain a copy of the order only after acquiring knowledge thereof. Immediately thereafter, steps were taken to institute the revision petition, and all these aspects have been duly considered by the learned Financial Commissioner while passing the impugned order.

22. The learned Senior Counsel has also invited the attention of this Court to the observations recorded by the learned Financial Commissioner that Mutation No. 39 dated 10.03.1959 had been challenged before the learned Additional Deputy Commissioner only on 29.01.1990, that is, after a lapse of more than 30 years. According to him, it was, therefore, incumbent upon the learned Additional Deputy Commissioner to have first determined the issue of limitation before entering into the merits of the controversy. Having failed to do so, the order passed by the learned Additional Deputy Commissioner could not be sustained in law.

23. The learned Senior Counsel has further drawn the attention of this Court to the observations recorded by the learned Additional Deputy Commissioner himself that the suit land might have changed several hands during the intervening period. Despite recording such an observation, the learned Additional Deputy Commissioner proceeded to set aside the mutation without condoning the delay or recording any reasons in that regard, which, according to the learned Senior Counsel, rendered the said order legally unsustainable.

24. Mr. Kohli, therefore, submits that the learned Financial Commissioner, while exercising revisional jurisdiction, has rightly set aside the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner, Jammu and upheld Mutation No. 39 dated 10.03.1959 pertaining to Estate Channi Kamala, Tehsil Bahu, District Jammu by virtue of the impugned order dated 27.02.2023.

LEGAL ANALYSIS

25. Heard learned counsel for the parties at length and perused the record.

26. Before adverting to the merits of the controversy, it would be apposite to notice that the present petition has been instituted under Articles 226 and 227 of the Constitution of India without clearly indicating the precise constitutional jurisdiction invoked. The scope, nature and ambit of the powers exercisable under Articles 226 and 227 are distinct and operate in different fields. It is, therefore, incumbent upon a litigant invoking the jurisdiction of this Court to lay the requisite factual and legal foundation corresponding to the constitutional provision under which relief is sought. In the present case, however, the challenge is directed against the revisional order passed by the learned Financial Commissioner and the relief claimed is essentially supervisory in nature. Accordingly, this Court proceeds to examine the present petition within the well-settled parameters governing the exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

27. Having heard learned counsel for the parties, perused the pleadings and considered the material available on record, this Court deems it appropriate to formulate the following questions for determination:

QUESTION NO. 1

Whether the learned Additional Deputy Commissioner committed a material irregularity amounting to a jurisdictional error in deciding the appeal on merits without first adjudicating upon the issue of limitation, despite the challenge to Mutation No. 39 dated 10.03.1959 having been instituted after more than three decades?

QUESTION NO. 2

Whether the learned Financial Commissioner was justified in condoning the delay in entertaining the revision petition preferred by respondent No.2?

QUESTION NO. 3

Whether the persons claiming rights through the registered sale deeds executed by Abdul Rahim or his successors-in-interest were necessary parties to the proceedings before the learned Additional Deputy Commissioner and, if so, whether the order dated

21.05.1991 amounted to a violation of the principles of natural justice on account of their non-impleadment?

QUESTION NO. 4

Whether the learned Financial Commissioner acted within the permissible bounds of revisional jurisdiction while setting aside the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner?

QUESTION NO. 5

Whether the impugned order dated 27.02.2023 passed by the learned Financial Commissioner suffers from any jurisdictional error, patent perversity or manifest illegality so as to warrant interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India?"

QUESTION NO. 1:-

Whether the learned Additional Deputy Commissioner committed a material irregularity amounting to a jurisdictional error in deciding the appeal on merits without first adjudicating upon the issue of limitation, despite the challenge to Mutation No. 39 dated 10.03.1959 having been instituted after more than three decades?

28. A perusal of the order dated 21.05.1991 reveals that the learned Additional Deputy Commissioner proceeded to examine the validity of Mutation No. 39 dated 10.03.1959 on merits and ultimately set aside the same. However, despite the specific issue arising with regard to the extraordinary delay in challenging a mutation which had remained operative for more than thirty years, no adjudication came to be made on the question of limitation nor any reasons were recorded for entertaining such belated proceedings. The learned Financial Commissioner has noticed this jurisdictional infirmity and has held that the issue of limitation ought to have been addressed before entering upon the merits of the controversy.

29. The aforesaid conclusion also finds support from the judgment of the Hon'ble Supreme Court in **'Union of India and another v. British India Corporation Ltd. and others', (2003) 9 SCC 505**, wherein the Hon'ble Supreme Court, while emphasizing the mandatory nature of the law of limitation, observed that:

> **"The question of limitation is a mandate to the forum and, irrespective of the fact whether it was raised or not, the forum must consider and apply it, if there is no dispute on facts."**

30. The aforesaid dictum leaves no manner of doubt that the question of limitation is not a mere procedural formality but goes to the very root of the maintainability of the proceedings. Once the appeal before the learned Additional Deputy Commissioner disclosed, on the face of the record, that Mutation No.39 dated 10.03.1959 was being challenged after more than three decades, it was incumbent upon the appellate authority to first determine the issue of limitation before embarking upon an examination of the merits of the controversy. The omission to do so constituted a material irregularity, which was rightly corrected by the learned Financial Commissioner in exercise of revisional jurisdiction.

31. The view taken by the learned Financial Commissioner also finds support from the recent judgment of this Court in **'Abdul Gani Ganie and others v. Habibullah Ganie',** WP(C) No.1303/2025, decided on

19.12.2025, wherein this Court reiterated that the question of limitation goes to the very root of the maintainability of proceedings and is required to be examined before the authority proceeds to consider the merits of the controversy. The relevant observations are reproduced as under:

> **"45. It is a settled principle of law that the question of limitation is a pure question of law, which goes to the very root of the maintainability of the proceedings. A court or statutory authority is not only empowered but is duty-bound to examine the issue of limitation *suo motu*, even if the same has not been specifically pleaded or argued by the parties.**
>
> **46. Where a proceeding appears, on the face of the record, to be barred by delay or suffers from gross laches, the authority cannot shut its eyes to such illegality and proceed to examine the matter on merits. Entertaining a time-barred claim would itself amount to a jurisdictional error."**

32. The aforesaid principles are squarely applicable to the facts of the present case. The appeal before the learned Additional Deputy Commissioner was directed against Mutation No. 39 dated 10.03.1959 and admittedly came to be instituted after more than three decades. Once such issue arose from the record itself, it was incumbent upon the learned Additional Deputy Commissioner to have first determined whether the appeal deserved to be entertained notwithstanding the extraordinary delay and whether sufficient cause had been made out for condoning the same. Without recording any finding on that foundational issue, the learned Additional Deputy Commissioner proceeded to adjudicate the validity of the mutation on merits. This Court is, therefore, of the view that the learned Financial Commissioner was, therefore, justified in holding that the omission to first decide the question of limitation constituted a material irregularity warranting interference in exercise of revisional jurisdiction.

33. Accordingly, **Question No. 1 is answered in favour of respondent No. 2** and against the petitioner by holding that the learned Additional Deputy Commissioner committed a material jurisdictional error in deciding the appeal on merits without first adjudicating upon the issue of limitation.

<u>QUESTION NO. 2</u>:-

Whether the learned Financial Commissioner was justified in condoning the delay in entertaining the revision petition preferred by respondent No. 2?

34. It is a settled principle of law that while considering the question of condonation of delay, it is not the mere length of the delay which constitutes the determinative criterion but the acceptability and sufficiency of the explanation furnished. Though delay has occurred on the part of both sides at different stages of the proceedings, the circumstances attending each delay are materially different. The appeal preferred before the learned Additional Deputy Commissioner against Mutation No. 39 dated 10.03.1959 was instituted after more than three decades without any explanation whatsoever for such extraordinary delay, much less any material demonstrating sufficient cause. Conversely, respondent No. 2 satisfactorily explained the delay in approaching the learned Financial Commissioner by establishing that neither they nor the other purchasers claiming through registered sale deeds had been impleaded before the learned Additional Deputy Commissioner and that they acquired knowledge of the order dated 21.05.1991 only when the concerned Patwari declined to issue the requisite revenue extracts. The explanation furnished by respondent No. 2 cannot be said to be either mala fide or indicative of negligence and, in the considered opinion of this Court, constituted sufficient cause for condoning the delay. Upon examining the reasons assigned by the learned Financial Commissioner in the light of the pleadings and the material placed before him, this Court is of the considered opinion that the learned Financial Commissioner committed no illegality in condoning the delay while entertaining the revision petition.

35. The Hon'ble Supreme Court in **"N. Balakrishnan v. M. Krishnamurthy", (1998) 7 SCC 123,** while considering the scope of interference with an order condoning delay, has observed as under:

> **"9. ….Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse…"**

36. What, therefore, emerges is that the question of condonation of delay is not to be determined with reference to the mere length of the delay but with reference to the acceptability of the explanation furnished. If the authority, upon consideration of the material placed before it, finds that the explanation constitutes sufficient cause, the delay deserves to be condoned notwithstanding its duration so as to advance substantial justice. However, where the explanation is found to be wholly unacceptable or lacking in bona fides, no such indulgence can be shown.

37. Applying the aforesaid principles to the facts of the present case, this Court finds that the explanation furnished by respondent No. 2 before the learned Financial Commissioner cannot be said to be either fanciful or devoid of substance. The learned Financial Commissioner considered the said explanation, recorded reasons for accepting the same and thereafter, exercised the discretion vested in him. Such exercise of discretion does not suffer from arbitrariness, perversity or manifest illegality so as to warrant interference in exercise of writ jurisdiction under Article 227.

38. The submission advanced on behalf of the petitioner that the same principle of limitation ought to govern both the appeal preferred before the learned Additional Deputy Commissioner and the revision petition instituted before the learned Financial Commissioner also deserves to be rejected. The two proceedings stand on entirely different foundational factual pleadings. While the appeal before the learned Additional Deputy Commissioner was preferred after more than three decades without any application seeking condonation of delay or any explanation whatsoever for such extraordinary lapse of time and respondent No.2 was also admittedly not a party to the proceedings before the learned Additional Deputy Commissioner and, therefore, had no occasion to assail the order until knowledge thereof was acquired. The learned Financial

Commissioner has accepted the explanation after recording cogent reasons. Thus, the delay which has occasioned in both the cases neither arise from identical circumstances nor warrant identical treatment in law.

39. **Question No. 2 is, therefore, answered in favour of respondent No. 2** by holding that the learned Financial Commissioner rightly exercised his discretion in condoning the delay upon being satisfied that sufficient cause had been established.

<u>QUESTION NO. 3</u>:-

Whether the persons claiming rights through the registered sale deeds executed by Abdul Rahim or his successors-in-interest were necessary parties to the proceedings before the learned Additional Deputy Commissioner and, if so, whether the order dated 21.05.1991 amounted to a violation of the principles of natural justice on account of their non-impleadment?

40. Equally significant is the finding recorded by the learned Financial Commissioner that the purchasers claiming through registered sale deeds executed by Abdul Rahim or his successors-in-interest were directly affected by the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner and, therefore, constituted necessary parties to those proceedings. Despite the existence of such registered conveyances, none of the purchasers were impleaded before the learned Additional Deputy Commissioner, although the order ultimately passed had the effect of unsettling rights flowing from those conveyances. Any adjudication affecting such civil rights could not have been undertaken without affording the concerned persons an effective opportunity of hearing.

Indeed, no order affecting vested civil rights ought ordinarily to be passed behind the back of the persons whose rights stand directly affected thereby. The learned Financial Commissioner was, therefore, justified in holding that the purchasers had been condemned unheard and that such omission constituted a material irregularity and also falls within the realm of an illegality warranting interference in revisional jurisdiction.

41. The aforesaid conclusion also finds support from the judgment of the Hon'ble Supreme Court in **'Canara Bank v. Debasis Das', (2003) 4 SCC 557,** wherein the Hon'ble Supreme Court, while emphasizing the paramount importance of the principles of natural justice, observed as under:

> **"15. The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram partem rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and unambiguous. It should appraise the party determinatively the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play."**

42. The aforesaid principle squarely governs the facts of the present case. The order dated 21.05.1991 passed by the learned Additional Deputy Commissioner directly affected the rights of respondent No. 2 and other purchasers claiming through registered sale deeds. Despite being persons whose civil rights stood liable to be adversely affected, they were neither impleaded as parties nor afforded an opportunity of hearing before the said order came to be passed. Such an adjudication, rendered behind the back of necessary parties, was clearly contrary to the principles of *audi alteram partem*. The learned Financial Commissioner, therefore, rightly held that the proceedings before the learned Additional Deputy Commissioner stood vitiated on account of violation of the principles of natural justice and warranted interference in exercise of revisional jurisdiction.

43. **Question No. 3 is likewise answered in favour of respondent No. 2** by holding that the purchasers under the registered sale deeds were necessary parties and the order dated 21.05.1991 amounted to a violation of the principles of natural justice owing to their non-impleadment.

QUESTION NO. 4:-

Whether the learned Financial Commissioner acted within the permissible bounds of revisional jurisdiction while setting aside the order dated 21.05.1991 passed by the learned Additional Deputy Commissioner?

44. Revisional jurisdiction is intended to correct jurisdictional errors, material irregularities and illegal exercise of jurisdiction committed by subordinate authorities. Where the authority of first instance proceeds to determine the merits of a controversy without first deciding an issue which goes to the root of the maintainability of the proceedings or renders an adjudication in violation of the principles of natural justice, the revisional authority would be fully justified in exercising its jurisdiction to correct such illegality. The impugned order passed by the learned Financial Commissioner is, therefore, a legitimate exercise of such revisional jurisdiction.

45. The learned Financial Commissioner did not re-appreciate the evidence merely because another view was possible. Rather, the interference was occasioned by the failure of the learned Additional Deputy Commissioner to determine the foundational issue of limitation and by the omission to implead persons whose civil rights stood directly affected by the outcome of the proceedings. These defects went to the legality of the proceedings themselves and fully justified the exercise of revisional jurisdiction

46. This Court also cannot lose sight of the fact that the learned Additional Deputy Commissioner himself observed that the property in question might have changed several hands during the long intervening period. Once such an observation had been recorded, greater circumspection was required before unsettling long-standing revenue entries. Rights flowing from registered conveyances could not have been adversely affected without first determining the maintainability of the appeal on the touchstone of limitation and without affording an opportunity of hearing to all persons likely to be prejudiced by the proposed adjudication. The omission assumes added significance in the peculiar facts of the present case. The learned Financial Commissioner was, therefore, justified in treating such omission as a jurisdictional infirmity warranting interference in revisional jurisdiction.

47. The contention of the petitioner that respondent No. 2 lacked locus to maintain the revision also does not persuade this Court to interfere with the impugned order. The learned Financial Commissioner has returned a categorical finding that the purchasers were in possession of the property, had acquired interest through registered conveyances and were directly affected by the order passed by the learned Additional Deputy Commissioner. Such a finding is essentially one of fact based upon the material placed before the revisional authority. No perversity or patent illegality in the said finding has been demonstrated before this Court.

48. It is true that the petitioner has raised several contentions touching upon the legality of Mutation No. 39, including alleged interpolation in the mutation register, chronological discrepancies and attestation in favour of Mohd. Hussain despite his alleged demise prior to the date of attestation. However, the revisional authority has examined the material before it and recorded reasons for disagreeing with the conclusions drawn by the learned Additional Deputy Commissioner. Re-appreciation of disputed questions of fact is not the function of this Court, particularly when the findings recorded by the revisional authority are based upon appreciation of the material available on record and are shown to be neither perverse nor unsupported by evidence.

49. Examined in the aforesaid backdrop, this Court is of the considered opinion that the learned Financial Commissioner exercised the revisional jurisdiction vested in him for correcting the jurisdictional error committed by the learned Additional Deputy Commissioner in deciding the appeal without first addressing the issue of limitation and without ensuring that the persons whose rights were likely to be affected were before the Court. The reasons assigned by the learned Financial Commissioner cannot be said to be arbitrary, irrational or otherwise contrary to law. The learned Financial Commissioner, therefore, acted within the permissible bounds of revisional jurisdiction.

50. Consequently, **Question No. 4 is answered in affirmative and in favour of respondent No.2** by holding that the learned Financial Commissioner acted well within the permissible limits of revisional jurisdiction while correcting the jurisdictional errors committed by the learned Additional Deputy Commissioner.

QUESTION NO. 5:-

Whether the impugned order dated 27.02.2023 passed by the learned Financial Commissioner suffers from any jurisdictional error, patent perversity or manifest illegality so as to warrant interference by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India?

51. Having held that the learned Financial Commissioner acted within the bounds of revisional jurisdiction, this Court now proceeds to examine whether the impugned order nevertheless warrants interference in exercise of supervisory jurisdiction under Article 227 of the Constitution.

52. The submissions advanced on behalf of the petitioner, though elaborately argued, do not demonstrate any jurisdictional error, manifest illegality or perversity in the impugned order dated 27.02.2023. The petitioner has, therefore, failed to make out a case warranting interference by this Court under Article 227 of the Constitution of India.

53. The jurisdiction of this Court under Article 227 of the Constitution is supervisory and not appellate. Unless the findings recorded by the authority suffer from patent lack of jurisdiction, manifest perversity or an error apparent on the face of the record, this Court would not interfere merely because another view on the facts is possible.

54. The Hon'ble Supreme Court in **'Shalini Shyam Shetty v. Rajendra Shankar Patil', (2010) 8 SCC 329**, has held that the supervisory jurisdiction under Articles 226 and 227 of the Constitution is to be exercised sparingly and only where the impugned order suffers from lack of jurisdiction, patent perversity, manifest illegality or gross failure of justice. In the present case, the order passed by the learned Financial Commissioner suffers from none of these infirmities. Rather, the learned Financial Commissioner lawfully exercised the revisional jurisdiction vested in him to correct the jurisdictional errors committed by the learned Additional Deputy Commissioner. Consequently, no ground for interference is made out.

55. Accordingly, **Question No. 5 is also answered in favour of respondent No.2** by holding that the impugned order dated 27.02.2023 does not suffer from any jurisdictional error, patent perversity or manifest illegality warranting interference by this Court under Article 227 of the Constitution of India.

<u>CONCLUSION</u>

56. In view of the foregoing discussion and the findings returned on each of the questions formulated hereinabove, this Court is of the considered opinion that the impugned order dated 27.02.2023 passed by the learned Financial Commissioner (Revenue), J&K does not suffer from any jurisdictional error, patent perversity, manifest illegality or failure of justice warranting interference in exercise of the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. On the contrary, the learned Financial Commissioner has rightly exercised the revisional jurisdiction vested in him by correcting the material irregularities committed by the learned Additional Deputy Commissioner, Jammu.

57. Accordingly, the writ petition, being devoid of merit, is dismissed. The order dated 27.02.2023 passed by the learned Financial Commissioner (Revenue), J&K is upheld. Pending application(s), if any, shall also stand disposed of.

(Wasim Sadiq Nargal)
Judge

<u>Jammu</u>:
23.07.2026
Nikhil

Whether the judgment is speaking : Yes
Whether the judgment is reportable : Yes