

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

WP(C) 3166/2025

Reserved on: 26.09.2026

Pronounced on: 28.09.2026

Uploaded on: 29.09.2026

***Whether the operative part or full
judgment is pronounced: Full***

Mrs. Kareena Jamwal, (Alias Zulikha
Hussain)

D/o: Late Sh. Raghbeer Singh

R/o: House No. 222-A, Lal Nagar,
Chanapora, Srinagar, Aged 71 years

...Petitioner(s)/Appellant(s).

Through: Mr. Mohammad Amin Bhat, Advocate

Vs.

1. Union Territory of Jammu & Kashmir
through Financial Commissioner
(Revenue), J&K, Srinagar.

...Respondent(s).

2. Divisional Commissioner, Kashmir,
Srinagar

3. Additional Divisional Commissioner,
Kashmir, Srinagar.

4. Deputy Commissioner, District
Bandipora.

5. Sub-Divisional Magistrate, Sumbal,
District Bandipora

6. Tehsildar, Sumbal, District Bandipora

7. Dr. Urmila Jamwal

W/o: Lt. Sh. Surjeet Singh Jamwal

R/o: H. No. 74-A, Dream City Muthi

Tehsil and District Jammu.

8. Mr. Raman Jamwal

S/o: Lt. Sh. Surjeet Singh Jamwal

R/o: H. No. 74-A, Dream City Muthi

Tehsil and District Jammu.

9. Mr. Rajat Jamwal

S/o: Lt. Sh. Surjeet Singh Jamwal

R/o: H. No. 74-A, Dream City Muthi

Tehsil and District Jammu.

10. Smt. Aruna Jamwal

S/o: Sh. Janmej Singh Jamwal

R/o: H. No. 74-A, Dream City, Muthi

Tehsil and District Jammu.

11. Sh. Suneet Singh Jamwal

S/o: Lt. Sh. Raghbeer Singh

R/o: H. No. 74-A, Dream City, Muthi

Tehsil and District Jammu.

Through: Mr. G.N. Sofi, Dy. AG for R- 1 to 6
Mr. Farhat Zia Soharwardy, Advocate for R- 7 to 9

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

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking, inter alia, issuance of a writ of certiorari for quashing of order dated 29.08.2025 passed by the learned Financial Commissioner (Revenue), J&K, in Revision Petition titled "Dr Urmila Jamwal & Ors. v. Smt. Aruna Jamwal & Ors., File No. 906/FC-AP. A further prayer has been made for issuance of a writ of mandamus directing the official respondents to attest the mutation afresh in favour of all the legal heirs of late Raghbeer Singh Jamwal and for maintaining status quo with respect to the property in question.

FACTUAL MATRIX

2. The case set up by the petitioner is that she and the private respondents are the legal heirs of a common ancestor, namely, late Thakur Raghbeer Singh, who left behind two sons, three daughters and his widow, Bimla Devi. One of his sons, namely, Surjeet Singh Jamwal, subsequently died leaving behind his widow, Mrs. Urmilla Jamwal, and two sons.
3. According to the petitioner, the parties are governed by the Hindu Succession Act and not by any customary law. It is her case that, upon the death of late Raghbeer Singh, his estate was required to devolve upon all his legal heirs in accordance with the applicable law of succession.
4. The petitioner alleges that mutation No. 488 dated 07.12.1970 was attested in favour of some of the private respondents, excluding her from the estate left behind by her deceased father. According to the petitioner, the said mutation was attested behind her back and without notice to her.
5. The petitioner further claims that at the time of attestation of the mutation she was a minor, her date of birth being 04.09.1954. She has relied upon a date of birth certificate in support of the said assertion. It is further pleaded that she was residing outside the Union Territory for a considerable period and had no knowledge of the mutation.
6. The petitioner claims to have acquired knowledge of mutation No. 488 only in the year 2022, when she approached the revenue authorities for mutation of her share and partition of the property. She thereafter obtained a certified copy of the mutation and challenged the same before the learned Sub-Divisional Magistrate, Sumbal, along with an application seeking condonation of delay.

7. The learned Sub-Divisional Magistrate, Sumbal, after issuing notice to the concerned parties and considering the rival submissions, allowed the application for condonation of delay. The petitioner asserts that the learned authority took into consideration the judgments of the Supreme Court concerning condonation of delay and held that refusal to condone the delay would result in denial of an opportunity to the petitioner to have her claim considered on merits.
8. The said order was assailed by the private respondents before the Divisional Commissioner, Kashmir, and the matter came to be transferred to the learned Additional Commissioner, Kashmir. The learned Additional Commissioner, after considering the matter, upheld the order passed by the learned Sub-Divisional Magistrate.
9. The private respondents thereafter approached the learned Financial Commissioner (Revenue), J&K, by way of revision. The petitioner contested the revision petition and reiterated that the parties were governed by the Hindu Succession Act, that she was a minor when the mutation was attested, and that the mutation had been attested without notice to her.
10. The learned Financial Commissioner, by order dated 29.08.2025, allowed the revision petition and set aside the orders passed by the learned Sub-Divisional Magistrate, Sumbal and learned Additional Commissioner, Kashmir. The said order has been assailed in the present writ petition.

GROUND OF CHALLENGE

11. The principal grounds urged by the petitioner are that the impugned order is non-speaking; that the learned Financial Commissioner failed to consider the

petitioner's submissions; that the mutation was attested behind her back; that she was a minor at the relevant time; that the mutation was allegedly attested in violation of Standing Order No. 23-A; that she acquired knowledge of the mutation only in 2022; and that the delay in challenging the mutation was, therefore, liable to be condoned.

12.The petitioner has also relied upon the principles laid down by the Supreme Court in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Ors.** It has been contended that while considering an application for condonation of delay, the Court should adopt a liberal, pragmatic and justice-oriented approach and that substantial justice ought not to be defeated by technical considerations. The Supreme Court has indeed emphasized that “sufficient cause” must be considered in the factual setting of each case, while also cautioning that an inordinate delay requires stricter scrutiny.

13.The petitioner has further pleaded that the property was ancestral property and that the other co-sharers could not acquire an exclusive right against her merely by virtue of possession. It has also been urged that the alleged conversion of the petitioner could not, by itself, deprive her of rights claimed by her in the estate.

STAND OF THE RESPONDENTS

14.The respondents have opposed the writ petition. Their preliminary objection is that no grave injustice or failure of justice has been occasioned to the petitioner by the order passed by the learned Financial Commissioner.

According to them, the Financial Commissioner rightly exercised revisional jurisdiction and set aside the orders passed by the authorities below.

15. It is further contended that the petition raises disputed questions of fact and that no cause of action has accrued in favour of the petitioner so as to warrant exercise of the extraordinary jurisdiction of this Court.

16. The respondents have also alleged suppression and concealment of material facts. They have particularly relied upon the discrepancy between the name “Karuna Jamwal” appearing in the date of birth certificate and the name “Kareena Jamwal alias Zulikha Hussain” stated in the writ petition. They have further contended that the petitioner has not placed the entire relevant record before this Court.

17. An objection has also been raised regarding non-joinder of necessary parties. According to the respondents, Swarn Jamwal, another sister of the parties, had died and her legal heirs were neither impleaded before the revenue authorities nor arrayed as respondents in the present writ petition.

REPLY OF THE RESPONDENTS TO THE PETITIONER’S CONTENTIONS

18. With regard to the petitioner’s contention that the impugned order is non-speaking and that the learned Financial Commissioner failed to consider the submissions raised by her, the respondents have submitted that the learned Financial Commissioner passed a reasoned and speaking order after considering the pleadings and the material available on record and rightly set aside the orders passed by the authorities below.

19.As regards the petitioner's challenge to the order of the learned Financial Commissioner on the question of condonation of delay, the respondents have submitted that the learned Financial Commissioner examined the legality of the orders passed by the authorities below. According to the respondents, the learned Sub-Divisional Magistrate had condoned the delay without sufficient or legally sustainable cause, while the learned Additional Commissioner erred in upholding the said order without properly recording findings on the grounds raised before him.

20.The respondents have further submitted that the learned Additional Commissioner did not properly deal with the contentions raised in the revision and merely observed that the order dated 02.01.2024 passed by the learned Sub-Divisional Magistrate was correct.

21.With regard to the petitioner's assertion that the mutation was attested behind her back and that she was a minor at the relevant time, the respondents have relied upon the discrepancy in the name appearing in the date of birth certificate and the name used by the petitioner in the writ petition. They have further contended that the learned Financial Commissioner considered the issue of delay and rightly noticed the prolonged silence after attestation of the mutation in the year 1970.

22.The respondents have submitted that the petitioner is seeking adjudication upon substantive rights arising out of the mutation, whereas the proceedings before the authorities below principally concerned the question of limitation and condonation of delay.

23.The respondents have further maintained that the pleadings and material available on record were duly considered by the learned Financial Commissioner and that the impugned order is a speaking and reasoned order.

24.As regards the petitioner's explanation for the delay, the respondents contend that she failed to establish sufficient cause for the extraordinary delay in challenging the mutation and that the authorities below failed to properly appreciate the explanation offered by her.

25.With regard to the petitioner's reliance upon the judgments concerning condonation of delay, the respondents contend that the said judgments do not justify condonation of an unexplained delay of about 52 years. According to them, the law requires a stricter approach where the delay is inordinate. The respondents have relied upon judgments dealing with belated proceedings and have referred to Wali Mohammad Magray & Anr. v. Ali Mohammad Gujree & Ors., stated to be reported as 2022 JKJ(HC) 307.

26. The respondents have further submitted that third-party interests had allegedly been created in the year 2003 by sale of the property in favour of Mst. Fareeda Begum and that settled transactions could not, according to them, be unsettled after such a long period.

27.As regards the petitioner's plea alleging violation of the principles of natural justice at the time of attestation of the mutation, the respondents have submitted that the mutation itself is not the subject matter of adjudication in the present writ petition and, therefore, the said plea is misconceived.

28.With regard to the petitioner's plea concerning her alleged conversion and the effect thereof upon her succession rights, the respondents have submitted that

the impugned order does not deal with the question of conversion under Hindu law and, therefore, the said contention proceeds on a misconception of the controversy involved in the present proceedings.

29.As regards the petitioner's assertion that the learned Sub-Divisional Magistrate and the learned Additional Commissioner had set aside the mutation itself, the respondents have disputed the said assertion. According to them, the said authorities were dealing with the question of limitation and condonation of delay and the mutation itself had not been set aside by them.

SUBMISSIONS OF THE PARTIES

30.Learned counsel appearing for the petitioner, when confronted with the considerable delay in assailing the mutation, submitted that the petitioner was a minor at the time of attestation of the mutation and, therefore, could not have effectively challenged the same at the relevant time. It was further submitted that thereafter the petitioner had been residing outside the Valley and, on account of the prevailing circumstances, could not challenge the mutation within the prescribed period. According to learned counsel, the circumstances which prevented the petitioner from approaching the competent authority within time were beyond her control and this aspect had not been accorded due consideration by the learned revisional court.

31. Per contra, learned counsel appearing for the private respondents submitted that no sufficient cause had been pleaded or established by the petitioner to explain the enormous delay. It was contended that the learned revisional court had rightly examined the matter and set aside the orders passed by the

authorities below, which, according to learned counsel, were not sustainable in law.

32. Learned counsel for the private respondents further submitted that condonation of delay is not a mere formality and cannot be granted merely on the asking of a party, particularly when the challenge is brought after more than five decades and the record indicates creation of third-party interests in the property. It was argued that, before proceeding to examine the matter on merits, the competent authorities were required to first determine whether the petitioner had furnished sufficient cause for the extraordinary delay in assailing the mutation. According to learned counsel, the learned revisional court has considered the material facts and the record in their proper perspective and has passed a legally sustainable order. It was, accordingly, urged that no interference by this Court in exercise of its writ jurisdiction is warranted and that the writ petition deserves to be dismissed.

CONSIDERATION

33. I have heard learned counsel for the parties and perused the pleadings available on record.

34. From a bare perusal of the record, it is apparent that mutation No. 488 was attested as far back as on 07.12.1970, whereas the appeal challenging the said mutation was filed on 01.03.2023, after a lapse of more than five decades. Thus, the issue of limitation was of considerable significance and required consideration at the threshold. The application seeking condonation of delay filed before the learned Sub-Divisional Magistrate, Sumbal, proceeded primarily on the ground that the petitioner and other appellants had been

residing outside the Valley for decades on account of the prevailing law and order situation and, therefore, had no knowledge about the attestation of the mutation.

35.The record further shows that the date of knowledge was stated to be 05.11.2022, when the petitioner allegedly approached the concerned revenue authorities for having the landed property partitioned according to the respective shares of the legal heirs and came to know that the estate had been mutated in favour of the sons of the deceased estate-holder.

36.The learned revisional court, while passing the impugned order, examined the explanation furnished for the enormous delay and, inter alia, noticed that the petitioner and the other appellants were sisters of the beneficiaries under the impugned mutation and were claiming ignorance of the mutation for more than five decades. The learned revisional court observed that the death of the estate-holder and consequent devolution of his estate were matters which could not reasonably remain unknown to the legal heirs for such an extended period.

37.The learned revisional court further considered the plea regarding the prevailing law and order situation in the Valley and observed that, even if such explanation were accepted, it could possibly justify the period subsequent to 1989 and the years during which the conditions in the Valley remained disturbed. However, according to the revisional court, no explanation had been furnished for the period from 1970 till 1989, or for the subsequent period when the situation had considerably improved. On such consideration, the revisional court found the explanation furnished by the

petitioner for the delay to be lacking in plausibility and not sufficient to inspire confidence.

38. The learned revisional court also took note of the sale agreement stated to have been executed by the sons of the estate-holder in respect of land measuring 110 kanals in the year 2003 in favour of one Mst. Farida. After considering the aforesaid circumstance along with the other material available on record, the learned revisional court came to the conclusion that the petitioner had failed to demonstrate sufficient cause for the highly belated challenge to the mutation.

39. The learned revisional court accordingly held that the learned Sub-Divisional Magistrate, Sumbal and the learned Additional Commissioner, Kashmir had erred in condoning the delay, as such course would have the effect of unsettling a long-standing mutation and could also give rise to further litigation, particularly in view of the alleged creation of third-party interests. The revision petition was, accordingly, allowed, the orders passed by the authorities below were set aside and mutation No. 488 pertaining to the estate situated at Asham was upheld.

40. The question that, therefore, falls for consideration before this Court is whether, in the facts and circumstances of the present case, the learned Financial Commissioner was justified in interfering with the orders passed by the learned Sub-Divisional Magistrate, Sumbal and the learned Additional Commissioner, Kashmir, and in declining to condone the delay of more than five decades in assailing mutation No. 488.

41.. It is trite that while considering an application for condonation of delay, the expression “sufficient cause” is required to receive a liberal and justice-oriented interpretation; however, such liberal approach cannot be stretched to the extent of condoning an inordinate and unexplained delay as a matter of course. The length of delay, the nature of explanation furnished, the conduct of the party, the rights that may have accrued in the interregnum and the prejudice likely to be caused to the opposite parties are all relevant considerations while exercising such discretion.

42. In the present case, there is no dispute that the mutation sought to be assailed was attested on 07.12.1970, whereas the challenge thereto came to be instituted only in the year 2023. The explanation furnished by the petitioner is essentially founded upon her being minor at the time of attestation, her residence outside the Valley and the prevailing circumstances. While these circumstances may constitute relevant considerations, the same cannot, by themselves, furnish an explanation for the entire period of more than five decades. The learned Financial Commissioner has specifically noticed the absence of any satisfactory explanation for substantial periods during which the petitioner could have taken steps to assert the rights now claimed by her.

43. The contention that the petitioner was a minor on the date of attestation of the mutation also requires to be considered in the context of the subsequent conduct. Even assuming the petitioner’s minority to be established, the same could not, by itself, explain the complete inaction for several decades after she attained majority. The plea of lack of knowledge, therefore, required a cogent and convincing explanation covering the entire period of delay, which, as noticed by the learned Financial Commissioner, was not forthcoming.

44. Another circumstance which assumes significance is the passage of more than five decades during which the mutation remained operative. The learned Financial Commissioner has noticed the alleged transaction in respect of the property in the year 2003 and the consequent possibility of third-party rights having been created. At this stage, reopening a revenue entry which has remained unquestioned for such a prolonged period would necessarily have consequences for persons who may have altered their position on the basis of the existing record.

45. The contention that the learned Financial Commissioner failed to consider the relevant submissions of the petitioner also does not merit acceptance. A perusal of the impugned order, as noticed hereinabove, shows that the learned revisional court considered the principal circumstances relied upon by the petitioner, including the alleged lack of knowledge, her residence outside the Valley, the prevailing conditions and the considerable lapse of time. The conclusion arrived at by the revisional court is based upon the material available on record and cannot be said to be without reasons.

46. In **Sheo Raj Singh v. Union of India & Anr.**, reported as AIR 2023 SC 5109, the Hon'ble Supreme Court has considered the issue regarding delay and laches. It would be profitable to reproduce paragraph 29 of the above judgment, which reads as under:

“29. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length

of delay being immaterial. Sometimes, due to want of sufficient cause being shown or an acceptable being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an 'explanation' and an 'excuse'. An 'explanation' is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an 'explanation' from an 'excuse'. Although people tend to see 'explanation' and 'excuse' as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real. An 'excuse' is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an 'excuse' would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication."

47.. The aforesaid principle makes it clear that although the length of delay by itself is not determinative, the sufficiency of the cause shown and the acceptability of the explanation furnished for the delay are matters which necessarily require consideration. The Court is required to distinguish between a genuine explanation accounting for the delay and a mere excuse seeking to overcome the consequences of inaction. In the present case, the explanation furnished by the petitioner has to be examined in the context of the fact that the mutation was attested in the year 1970, whereas the challenge thereto was instituted only in the year 2023.

48. The question of condonation of delay has also to be considered in the backdrop of the settled principle that limitation is not a mere technicality, but a statutory prescription intended to bring finality and certainty to legal proceedings. The discretion to condone delay is, therefore, required to be exercised upon a proper consideration of the explanation furnished by the party seeking such indulgence.

49. In **Basawaraj & Anr. V. Special Land Acquisition Officer**, reported as **(2013) 14 SCC 81**, the Hon'ble Supreme Court held that where the statute prescribes a period of limitation, the same has to be applied with all its rigor and cannot be extended merely on equitable considerations or on the ground of hardship. The Court observed as under:

*“It is a settled legal proposition that law of limitation may harshly affect a particular party, but it has to be applied with all its rigor when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. ‘A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.’ The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *duralex sed lex*, which means ‘the law is hard but it is the law’, stands attracted in such a situation. It has consistently been held that, ‘inconvenience is not’ a decisive factor to be considered while interpreting a statute.”*

50. The aforesaid judgment, therefore, reinforces the principle that equitable considerations or mere hardship cannot, in themselves, furnish a ground for extending a statutorily prescribed period of limitation. The explanation for delay must nevertheless satisfy the legal requirement of “sufficient cause”.

51. This Court, in **Mohd Bashir v. Union Territory of J&K and Others**, bearing WP(C) No. 551/2025, decided on 10.03.2026, has also considered the significance of limitation and observed as under:

“Rules of limitation are prima facie rules of procedure and do not create any rights in favour of any person nor do they define or create cause of action but simply prescribe that the remedy could be exercised only upto a certain period and not beyond it. The Rules of Limitation are not superfluous or vestigial but are to be interpreted in a meaningful manner so as to save the system from anarchy. Law of Limitation fixes a life span for every legal remedy. Time is precious and the wasted time would never resist. So, a life span must be fixed for each remedy. Unending period for launching the remedy may lead to an uncertainty and consequential anarchy. It is enshrined in maxim, “Interests reipublicae ut sit finis litium (It is for the general welfare that a period be put to litigant). Every legal remedy must be kept alive for legislatively fixed period of time. Law is also clear each day after limitation time, is required to be explained by cogent means.”

52. The cumulative effect of the aforesaid principles is that while the Court is not expected to adopt an unduly pedantic approach while considering a plea for condonation of delay, the discretion cannot be exercised in the absence of a satisfactory and legally acceptable explanation covering the period of delay. The longer the period of inaction, the greater is the necessity for the party seeking condonation to place before the Court a cogent explanation accounting for the relevant periods of delay.

CONCLUSION

53. In view of the forgoing discussion, the explanation furnished by the petitioner in the present case does not satisfactorily account for the entire period intervening between the attestation of mutation No. 488 on 07.12.1970 and the institution of the challenge in the year 2023. The plea that the petitioner

was a minor at the time of attestation and thereafter remained outside the Valley may explain, at best, certain periods of time; however, the same does not, in the absence of further particulars and supporting material, satisfactorily explain the prolonged inaction extending over several decades.

54. The learned Financial Commissioner, while exercising revisional jurisdiction, has considered the explanation furnished by the petitioner in the backdrop of the entire period of delay and has noticed the absence of any satisfactory explanation for the period preceding 1989 as well as for the subsequent period during which, according to the record, the petitioner could have taken steps to assert the rights now claimed by her. The approach adopted by the learned revisional court is thus consistent with the principles governing condonation of delay noticed hereinabove.

55. It is also relevant that the proceedings arising out of mutation No. 488 have to be viewed in the context of the passage of more than five decades. The intervening period assumes significance, particularly when the respondents have placed on record the circumstance of a transaction relating to the property having taken place in the year 2003. A belated reopening of such a long-standing revenue entry may have consequences for rights and interests that have intervened during the period of inaction.

56. Having regard to the totality of the circumstances, this Court finds that the learned Financial Commissioner has neither acted beyond the jurisdiction vested in him nor committed any manifest error of law in setting aside the orders passed by the learned Sub-Divisional Magistrate, Sumbal and the learned Additional Commissioner, Kashmir. The exercise of discretion by the revisional authority, particularly in the backdrop of an unexplained delay

extending over more than five decades and the intervening circumstances noticed hereinabove, does not call for interference under Article 226 of the Constitution of India.

57. Accordingly, the present writ petition devoid of any merit is hereby dismissed.

The order dated 29.08.2025 passed by the learned Financial Commissioner (Revenue), J&K, in Revision Petition titled “**Dr. Urmila Jamwal & Ors. V. Smt. Aruna Jamwal & Ors.,**” File No. 906/FC-AP, is accordingly upheld.

SRINAGAR
28.09.2026
“Mubashir “

(WASIM SADIQ NARGAL)
JUDGE

Whether the judgment is speaking: Yes/No
Whether the judgment is reportable: Yes/No