

**HIGH COURT OF JAMMU AND KASHMIR  
ATJAMMU**

**PIL No. 25/2017**

IA(2/2017) CM(1456/2020)  
CM(2263/2020) IA(1/2017)  
CM(2809/2020) CM(2810/2020)  
(Through Video Conferencing from Srinagar)

SAVE

.....Applicant(s)

Through :- Mr. S. S. Ahmed, Advocate.  
(On Video conference from office at Jammu)

V/s

State of J&K and Others

....Respondent(s)

Through :- Mr. D. C. Raina,  
Advocate General with  
Mr. Ayjaz Lone, Dy. AG. for  
Forest Department.  
(On Video conference from office at Jammu)  
Mr. S. S. Nanda, Sr. AAG for  
Revenue Department.  
(On Video conference from office at Jammu)  
Mr. Sachin Gupta, Advocate for  
Respondent No. 4 & 8.  
(On Video conference from office at Jammu)

**PIL No.19/2017**

IA(1/2017)  
CM(3152/2019[1/2019])  
(Through Video Conferencing from  
Srinagar)

Inhabitants of Village Hari and others

.....Petitioner(s)

Through :- None.

V/s

State of J&K and Others

.....Respondent(s)

Through :- Mr. D. C. Raina,  
 Advocate General with  
 Mr. Ayjaz Lone, Dy. AG for  
 Respondent Nos. 1 to 3.  
 (On Video conference from office at Jammu)  
 Mr. S. S. Nanda, Sr. AAG for  
 Respondent No.4.  
 (On Video conference from office at Jammu)

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

(On Video Conference from residence at Srinagar)

**HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE**

(On Video Conference from residence)

**ORDER**

**21.09.2020**

**PIL Nos. 25/2017 & 19/2017**

01. It is stated by Mr. Ayjaz Lone, Id. Dy. AG that he has filed a compliance report dated 17<sup>th</sup> September 2020 9 (as directed in PIL No.25/2017) in the Registry today itself.
02. The same has not been placed on record.
03. Mr. S. S. Ahmed, requests for hard copy of the report. The same shall be provided to him within two days. Let copy of the status report filed by the Municipal Corporation, be furnished to Mr. S. S. Ahmed and also be brought on record.
04. We are informed that Mr. Mohit Gera, Principal Chief Conservator of Forests is member in the Committee which has been constituted by the Chief

Secretary in terms of order dated 3<sup>rd</sup> September 2020 passed in PIL No.25/2017. The Committee is, however, yet to commence its functioning.

05. Mr. Lone, learned Dy.AG pointed out that the revenue entries whereby the ownership of about 1,600 kanals of forest land was changed in favour of certain private persons without any authorization, have been cancelled.

06. He was not aware of the fact as to whether any action has been taken against the officers/officials who had carried out those entries in the revenue record.

07. Mr. Lone submits that the status report in terms of the order dated 4<sup>th</sup> March 2020 (passed in PIL No.19/2017) has been filed today in the Registry. The same has ensured adjournment.

08. Any such report is required to be filed prior to the date of hearing so that it comes before the Court and the matter can be heard.

In future due care shall be taken thereof.

09. Mr. S. S. Ahmed, ld. counsel appearing for the petitioner submitted that as action being taken by the forest authorities for removal of the encroachments, the aggrieved persons may approach different authorities for challenging the action of the department and try to obtain interim stay. As this Court is monitoring the entire process, all the authorities be restrained from entertaining any petition/application with regard to the forest land, the encroachments whereof are being removed.

10. We are informed by Mr. Lone that the entire data with regard to encroachments on forest land has been uploaded on the website of the Forest Department.

11. We are informed by Mr. Lone that Smt. Sarita Chauhan, Commissioner/Secretary to Govt., Forest Department, is under quarantine and, therefore, is unable to appear as ordered on 3<sup>rd</sup> September 2020 (passed in PIL No.25/2017).

12. Mr. Pawan Dev Kotwal, Secretary Revenue who was directed to appear is not present. We are informed by Mr. Nanda that he is travelling from Srinagar to Jammu. For this reason he is unable to appear. This is no excuse at all for not complying with the order of the Court. His conduct is not acceptable.

13. We were inclined to impose costs for his unexplained absence. However, Mr. Nanda assures this Court that Mr. Pawan Dev Kotwal shall remain present on the next date of hearing.

**Directions in PIL Nos.25/2017 and 19/2017**

14. In view of the above, we direct as follows:

- (i) Let information regarding all encroachments be again made available to the Revenue authorities who shall make the necessary entries in their records, if not already effected.
- (ii) We issue directions to all departments of the Union Territory of the Jammu and Kashmir that they shall not register or recognize any transactions/transfers/change(s) of possession of the encroached forest land in the records in any manner.
- (iii) All directions made by us in the order 3<sup>rd</sup> September 2020 (recorded in PIL No.25/2017) including the steps which are required to be taken by the

Committee, should be complied with before the next date of hearing and the action taken report filed before us.

- (iv) Secretary, Revenue shall get the matter enquired into and file a report before this Court regarding officers/officials guilty of fraudulently changing/making entries in the revenue record.
- (v) The Forest Department shall file the action plan for removal of the encroachments from the forest land.
- (vi) In future no Court or authority shall entertain any matter/case pertaining to the removal of encroachments by the Forest Department. In case any person has a grievance he shall be at liberty to file an application in the present petition only.
- (vii) In case there is any case pending involving forest land, the court concerned/authority shall forthwith inform the Registrar Judicial (Jammu) of the same. Appropriate steps in the case for transfer/clubbing/expedition/other appropriate orders shall be sought in accordance with law.
- (viii) The copy thereof may also be sent to Law Secretary of Union Territory of Jammu and Kashmir for bringing it to the notice of Revenue Authorities or the Tribunals, who may venture into this litigation.
- (ix) Copy of the order be circulated by the Registrar Judicial (Jammu) to all the Judicial Officers in the Union Territory of Jammu and Kashmir and Union Territory of Ladakh.

15. Adjourned to 7<sup>th</sup> October 2020.
16. Copy of this order be placed on file of all connected cases.

**(RAJESH BINDAL)**  
**JUDGE**

**(GITA MITTAL)**  
**CHIEF JUSTICE**

Jammu  
21.09.2020  
Raj Kumar

