

DT:- 05/2/2025. (85)

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH NEW DELHI

**From Sarpanch
Gram Panchayat Village Sonium
Kunzar Tangmarg Baramulla**

Subject; - Response to the allegations levelled against me in the Original Application No. 1344/2024 & Case; -

Raja Muzaffar Bhat (Applicant)

Versus

Union Territory of Jammu and Kashmir & others (Respondents)

The reply is submitted by me "Sarpanch Gram Panchayat Village Sonium Respondent No; -5" herein the head of Gram Panchayat village Sonium hereby submit the para-wise reply to the allegations levelled against me.

Para-wise Reply to the allegations levelled.

1; - In Reply to the Diversion of natural stream commonly known as badyari nallah and felling of 1000 trees; -

I Sarpanch of Village Sonium totally denies this allegation with the statement that;- I have proposed and approved the construction of playground at sonium under **MGNREGA in the Gram Sabha** upon the request of youth of our village, who were moving from pillar to post for the construction of the playfield, Subsequently the plan was finally approved by the **District Programme committee (Deputy commissioner Baramulla)**. But at the execution site some patch of state land was grabbed by some adjacent land owners so before execution the eviction of state land to its lawful position was taken up with the Revenue department lead by Tehsildar Kunzar Baramulla. The Tehsildar after making demarcation of the land as per the revenue records issued the eviction notice to the land encroachers to remove the encroachment. The notices given to the encroachers are affixed herewith as **ANNEXURE-A**. when the encroachers did not remove the encroachment the Tehsildar Kunzar called J&K Police Pattan and removed the encroachment by way of earth excavation and freed the land for the construction of playfield, communication of tehsildar Kunzar to **SHO Pattan** is herewith affixed as **ANNEXURE-B**. After removing the encroachment, a **handover certificate (superdnama)** was provided to panchayat body for the construction of playfield, the handover letter is affixed herewith as **ANNEXURE-C**. During eviction process the Land grabbers/ encroachers has filed the petition before the **Hon'ble Court Pattan Baramulla on 15/02/2024 CNR No KJBA12.... 2024** in which the court directed the Revenue department to maintain status quo, however allowed the respondents (Tehsildar Kunzar) to submit the objections and after filing of objections by Concerned Tehsildar with material evidences, reply affixed herewith as **ANNEXURE-D** the **Court of Sub-judge Pattan Baramulla** announced the judgement on 09/03/2024 in favour of Revenue Department with the order to proceed in the eviction process. After losing the case on merits in the **Court of Sub-judge Pattan Baramulla** the land grabbers/ encroachers appealed before **Court of 1st Additional District Judge Baramulla on 09/03/2024** and the court of 1st Additional District Judge Baramulla again directed the Revenue Authorities to maintain status quo and allowed the Respondents to file the objections and till the next of hearing, till date the case is pending before the **Court of 1st Additional Judge Baramulla**. So how come the Govt work is executed when the issue is

87/25 Tndl.
19/25
OA 1344/2024
PO Panchayat
file 17/2/2025
M. B. Singh
Ld. R.C.
15-2-2024
Ch(2)

Sarpanch
Gulam Mohammad Mulla
Halqa PH-08, Sonium
Block Lalpora
698 15 Feb 2025
Date:- 05/2/2025

Sarpanch
Gulam Mohammad Mulla
PH-08, Sonium
Block Lalpora
Page 01 of 3

sub-judice in the court of additional judge Baramulla, so due to **Sub-judicial nature** of the matter we could not execute the work. So, no work like **Diversion of Nallah or Construction of playfield** has been taken up due to stay order from the court. This could be directly checked online through **MGNREGA portal** and also list of works taken up in 2023-24 and 2024-25 is hereby affixed as **Annexure-E**. Henceforth the allegation levelled regarding diversion is totally frivolous and baseless. The photographs presented by the applicant showing excavation of earth actually shows the retrieval of state land by the revenue authorities not the diversion of stream. The copies of court orders are Annexed herewith as **ANNEXURE-F** and present Geo-tag photographs of the stream is annexed herewith as **ANNEXURE-G**. Regarding the felling of 1000 trees, is also a silly and facetious allegation levelled against me. The domain of felling of trees and making the state land free from every obtrusion belongs to department of revenue headed by **Tehsildar as per J&K Land Revenue ACT 1996 in compliance to the directions of Hon'ble supreme court of India in civil appeal no 1132/2011 titled Jagpal Singh vs State of Punjab and others and the powers conferred by J&K Land Revenue act Svt 1996 and J&K Common lands regulation act 1956 and J&K cabinet decision no 188/23/2011 dated 19/10/2011**. And in consonance to these acts the occupants of the state have to remove the encroachment by their own and in case of removal by the revenue authorities the, the expenditure incurred upon removing such encroachment is born upon the encroachers, therefore the applicant have not presented any such notice of Tehsildar before the Hon'ble turbinal which could reveal that the land was occupied by huge no of trees, in spite of the applicant has made this motivated application to defend the encroacher's who have grabbed the state land, otherwise there were not such no of trees. So, the allegation of cutting down of 1000 trees is very frivolous, had been such number of trees felled down the applicant should have presented the photo before the Hon'ble Tribunal which could have depicted the stems of felled trees. Therefore, the applicant has clear malafide intentions in making this allegation even the applicant has Hand & glove with land encroachers and wants the administration to step back in the eviction process.

2: - In Reply to point 4 that in Feb 2024 the block development office block lalpora with permission of sarpanch has started the diversion of the stream for setting up of playground: -

This allegation is also denied on the basis that the concerned **Sub-Divisional Magistrate Gulmarg** constituted a committee headed by Tehsildar Kunzar vide his order no SDM/G/2024/2246-50 Dated 11-03-2024 for development of playfield, Order affixed herewith as **ANNEXURE-H**, the committee in its report to **Sub-Divisional Magistrate Gulmarg** has clearly reported that no diversion of nallah has been made, the report vide no TK/OQ/2023-24/700-05 Dated 14/03/2024 is affixed herewith as **ANNEXURE-K**. Also during the eviction of state, the Land grabbers/ encroachers has filed the petition before the **Hon'ble Court Pattan Baramulla on 15/02/2024 CNR No KJBA12.... 2024** in which the court directed the Revenue department to maintain status quo, however allowed the respondents to submit the objections and after filing of objections by Concerned Tehsildar with material evidences the **Court of Sub-judge Pattan Baramulla** announced the judgement on 09/03/2024 in favour of Revenue Department with the order to proceed in the eviction process. After losing the case on merits in the **Court of Sub-judge Pattan Baramulla** the land grabbers/ encroachers appealed before **Court of 1st Additional District Judge Baramulla on 09/03/2024** and the court of 1st Additional District Judge Baramulla again directed the Revenue Authorities to maintain status quo and allowed the Respondents to file the objections and till the next of hearing, till date the case is pending before the **Court of 1st Additional Judge Baramulla**. So how come the Govt work is executed when the issue is sub-judice in the court of additional judge Baramulla, henceforth the allegation levelled regarding diversion is totally frivolous and baseless. The photographs presented by the applicant showing excavation of earth actually shows the retrieval of state land by the revenue authorities not the diversion of stream.

(Handwritten Signature)
 Sarpanch
 Gnujam Mohammad Malla
 Halqa PH-08, Sonum
 Block Lalpora

DT 05/2/2025

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3;- in reply to allegation 5 that 1000 trees such as 600 willow trees, 300 popular trees and 100 acacia and Rubina and 10 walnut trees.

This allegation is too frivolous and false. when no Govt work has been executed at the site then how come the 1000 trees have been cut down, **And the Hon'ble tribunal could also check online list of works through <https://nrega.nic.in> which clearly shows no work with nomenclature "construction of playground sonium" or "diversion of water stream in sonium" has been executed in the year 2023 and 2024, simply click MGNREGA site <https://nrega.nic.in>, go to reports, enter captcha, select state, then go to R6 module and then click on serial no 12 (dynamic Report for Monitoring and details of works), enter the details like Distict Baramulla, block lalpora, panchayat sonium, financial year 2023-24 by entering such details the list of all works executed year wise will get displayed, If this work does not exist on the portal, means this work has not been executed, if the work is not executed then how come the stream has been diverted.** Also, offline list of works executed in Sonium for the year 2024 is annexed herewith as ANNEXURE-L to support the statement. so, if, no work has been executed then how come the block development office has cut down 1000 trees. The allegation falsifies also from this argument that felling down of 1000 trees may cost about at least one to two lac rupees which the Block Development officer could not arrange without executing the govt work. Also, in reference to the J&K land Revenue ACT 1996 and J&K Common lands regulation act 1956 and J&K cabinet decision no 188/23/2011 dated 19/10/2011, the expenditure incurred in removing encroachment in the form of trees is born upon the land encroacher's, which the applicant has not mentioned, had the cutting of trees been true then there shall have been a notice to the tree owners to pay the cost of cutting down of trees. So, the allegation levelled is absolute wrong, and false evidences in the shape of wrong photos have been presented before the Hon'ble tribunal by the applicant.

4;- in reply to No Objection Certificate of irrigation and flood control Department;-

It is prayed before the Hon'ble tribunal that in the execution of any work to any irrigation stream comes under the category of **convergence**, means the department of Rural development headed by block development officer and department of irrigation and flood control headed by Assistant executive engineer execute the work in collaboration and in such works no NOC is required from the department. Also, when the work to be executed is already approved by Gram Sabha wherein the senior official of the irrigation and flood control department participates and approves lead by the approval from District planning committee then there never comes the question of NOC. Although the tehsildar kunzar, sub-divisional Magistrate has conveyed by a written communication affixed herewith as ANNEXURE-M to the office of Block Development officer Lalpora to execute the work on playground but due to court stay the work could not be taken up. Therefore, I pray before the Hon'ble court that work is only executed after **Allotment or Authorization order to the Contractor or Mate** and if such allotment or authorization order is not there then how come the diversion of Nallah has been made. Henceforth the applicant has clear malafide intentions in such a case and has hand and glove with the land grabbers to divert the attention of administration and lead the land grabbers to continue the state land grabbing.

Therefore, most respectfully it is prayed before the Hon'ble tribunal to dismiss the present application for the reasons and facts stated above and thus render justice.

(Handwritten Signature)
Sarpanch
Ghulam Mohammad Mulla
Halqa PH-08, Sonium
Block Lalpora

Page 3 of 3

Dated:- 05/2/2025
Place :- Sonium Baramulla

ANNEXURE - A

از عدالت ایگزیکٹو کالج، درجہ اول، کولمبو، کینیا

عنوان : خدات و زما نسبت ناعاشقہ قبضہ/ تہیت رہ وقتہ سرکار
سہولہ کالجیٹ و انڈر ڈریسٹ لومخ۔

ذکرنامہ دار غلام مصطفیٰ اللہ ولد فتح رحیم اللہ

- 1- محمد الیاس اللہ ولد فتح رحیم اللہ
- 2- محمد جمشید اللہ ولد فتح رحیم اللہ
- 3- محمد مصطفیٰ اللہ ولد فتح رحیم اللہ
- 4- ارمیاہ حسین اللہ ولد فتح رحیم اللہ

Alloes
 غلام مصطفیٰ اللہ
 Sarpanch
 Ghulam Mohammad Hafiz
 Hafez PH-08, Sonnum
 Bhalu Lalpala
 41-5/125

مقامی عدالت عنوان الزما نسبت آئیگو ذرا لیتہ ذرا لیتہ اعلیٰ

دعا جائے۔ کہ آپ مولفہ پر تفریقہ 2023/2024/151 ایسے 11 سے

حاضر رہے۔ پھر جائزہ کہ صورت میں آئیگی عدالت جانوں کاروان محل
سیا لائی جا سکتی۔ تمہارا اللہ



TK/08/2023/633
 14/02/2024

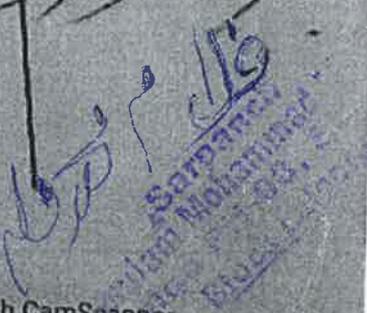
محمد
 محمد

لکھو ایڈووکیٹ مارشل کورٹ ہاؤس، ڈولڈ سٹریٹ، نیشنل کراؤن روڈ، کولمبو، کینیا
 ذرا لیتہ پر حاضر رہے۔

انتخاب شماره کردوری بابت موضع سونم تحصیل: خلع باره در

شماره مراتب در	نام مالک مع احوال	تعداد		قسم زمین	الوا	
		کنال	مرله		بک	بک
	مفتوحه باخان	۱۸	۱۵	عمر زمین	۲	۱۸
	مفتوحه باخان	۱۸	۱۸	مفتوحه	۱۸	۱۸
	مفتوحه باخان	۱	۱	آباد	۱	۱

۱۶ عرض باج در عمر زمین مال خود در شماره ۱۴۲ سن مسج
 ال مسالقولین
 ۱۱ در شماره ۱۴۲ عمر سن گراوین
 ۵ ششور شامل قتل سن
 ۱۱ در شماره ۱۴۲ سن گراوین
 ۱۱ در شماره ۱۴۲ سن گراوین
 ۱۱ در شماره ۱۴۲ سن گراوین



A-320XSIAM/

Office of the Tehsildar Kunzer

Asst. Collector 1st Class / Executive Magistrate Class 1st.

(Email: tehsilofficekunzer@gmail.com; 01954-255110).

The Station House Officer,
Kunzer/Pattan

Subject: Providing of Police Assistance for anti encroachment drive at Village Sonium for development of Playfield.

Sir,

Regarding the subject cited above, in this connection you are hereby directed to provide sufficient police assistance both men and women contingent on 15/02/2024 at 11am in order to maintain Law and Order problem.

NO: TK/OQ/2023 / 632

Dated: - 14 /02/2024

Yours faithfully,



Copy to:

1. The Worthy Deputy Commissioner Baramulla for favour of information.
2. Sub Divisional Magistrate Gulmarg for information.
3. SDPO Patan for information.

Attested

[Handwritten signature]

*Sub Divisional Magistrate
Gulmarg*

Dt: 5/2/2025

ANNEXURE-A

از عدالت ایگزیکٹو مجسٹریٹ درہم اول اسٹینٹ فلکٹر درجہ اول تحصیلہ انڈر
مضمون :- درخواست بنیاداً باہندگان سونے عمل کو

مخلاف

- ① عنام مصطفیٰ ولد عنام اول ولد
- ② محمد اسد اٹا ولد ولد عنام اول
- ③ محمد قاسم ولد ولد علی ولد

حکم بنام :- ایس۔ ایچ۔ او۔ کنٹرول / پٹن

محاملہ مندرجہ عنوان الصدر کے نسبت آپکو حکم دیا جاتا ہے کہ آپ ملزمان
ملزمان کو حراست میں لیکر پتھر 24-2-15 صبح گیارہ بجے عدالت ہذا
میں بخضر ضروری کاروائی پیش کریں۔ نینرا گرو ملزم / ملزمان
ضمانت و مچلکم ذاتی فی کس بقدر مبلغ 25000/- روپیہ پیش کریں تو
ملزمان حراست سے باز رکھیں و عمر الصدر۔



ایگزیکٹو مجسٹریٹ درہم اول اسٹینٹ فلکٹر درہم اول
مختار احمد

نمبر نمبر 63/2023/TKOB

14/2/2024

عربی معز -

ایس۔ ایچ۔ ایس۔ صہب ملک بابت اطلاع دیا۔

غلام احمد
Sarpant-e-Munim
Talqa Ph-08, S...
Block Laya...

ANNEXURE-C

**EXECUTIVE MAGISTRATE 1ST CLASS
NAIB- TEHSILDAR CHUKAR-KUNZER
SUPURDNAMA**

Today on 11-04-23 undersigned along with Patwari halqa Yali & PH Wailoo conducted demarcation as directed by worthy S.D.M Gulmarg. Also members of panchayat halqa sonim & Lamberdar concerned were present on spot. The land patch evicted on spot has been handed over to panchayat body sonim for development of play field/ playground. Also notices were issued to encroachers to remove further encroachments on their own failing with action under law will be taken against them.

[Signature]
NAIB-TEHSILDAR CHUKAR-KUNZER

PANCH
Naza Sonum
Halqa PH-08, Sonum
Block Lalpora Ward No. 05

PANCH
[Signature]
Halqa PH-08, Sonum
Block Lalpora

Sarpanch
[Signature]
Halqa PH-08, Sonum
Block Lalpora

Sarpanch
[Signature]
Halqa PH-08, Sonum
Block Lalpora Ward No. 01

PANCH
[Signature]
Ward No-2
Halqa Sonum-042

[Signature]
Sarpanch
Ghulam Mohammad Mulla
Halqa PH-08, Sonum
Block Lalpora
Dt. - 5/2/2025

والله اعلم
بما كنا نعبد
من دونه
وما كنا
نعلمون

بما كنا نعبد
من دونه

سما



كفر

لوعا. من لود...
2018

Zahid Malik
Pat...
1850

Almas
Sarpanch
Ghulam Mohammad
Hataqa PH-08, So...
Block Lalpora

94.

ANNEXURE-D

OFFICE OF THE TEHSILDAR KUNZER

EXECUTIVE MAGISTRATE 1ST CLASS / ASSISTANT COLLECTOR 1ST CLASS.

BEFORE THE HON'BLE 1st ADDITIONAL DISTRICT JUDGE, BARAMULLA

In the case of:

1. Gh. Mustafa Malla S/O Gh. Rasool Malla
 2. Mohamad Assadullah Malla S/o Lt Gh Ahmad Malla
- Both Residents of sonium tehsil Kunzer District BaramullaAppellants

VERSUS

1. Union Territory of Jammu & Kashmir through Commissioner Secretary to the Rural Development department at Civil Secretariat Srinagar/Jammu.
 2. Assistant Commissioner Development Barramulla.
 3. Block Development officer Lalpora Tangmarg.
 4. Tehsildar Kunzer.
 5. Ghulam Mohammad Malla S/o Ali Mohammad Malla.
 6. Iqbal Hussain Malla S/o Ghulam Hussain Malla, both residents of Village Sonium Tehsil Kunzer & District Barramulla.
 7. Shabir Ahmad Sofi S/o Ghulam Rasool Sofi R/o Kanloo Tehsil Pattan & District Baramulla.
-Contested Respondents

8. Mohammad Qasim Malla S/o Ali Mohammad Malla
 9. Gh. Hussain Malla S/o Lt. Gh Rasool Malla
 10. Gh. Ahmad Malla S/o Ali Mohammad Malla
- All residents of village Sonium Tehsil Tehsil Kunzer Dist. Bla
...Proforma Respondents.

In the matter of:- Appeal against order dated 09.03.2024 passed by learned Sub-judge/civil Judge Sr.Division Pattan in the application made by respondent No.03 for clarification

May it please your honour that:

The statement of facts/ compliance report is submitted as under:

01. That this office received a complaint/representation from inhabitants of village Sonium through Sarpanch along with senior citizens of the said village who complained that some of the persons have illegally encroached the Kahcharie Land.
02. That the village inhabitants also claimed that some illegal encroachers particularly petitioners have encroached Shamilat deh Sec 4 land.

Attested

[Signature]

Ghulam Mohammad Malla
Sarpanch
Halqa PH-08, Sonium
Block Lalpora

5/2/2025

TEHSILDAR KUNZER

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9-BAUXBAMA

GOVERNMENT OF JAMMU AND KASHMIR
Office of the Block Development Officer, Lalpora

Email: bdolalpora16@gmail.com

The Assistant Executive Engineer,
Tail Race Subdivision,
Kunzer, Baramulla

Subject: Execution of Work - Providing of NOC Thereof (Development of Playfield at Sonium Side at Hatqa Sonium)

Reference: Your Letter No: TRK/1110-12 Dated 23-02-2024.

Sir,

With reference to the subject cited above and your letter referenced TRK/1110-12 dated 23rd February 2024, it is to state that:

Whereas, during the preparation of the Gram Panchayat Development Plan (GPDP), frontline workers from all departments, including employees from your subdivision, were involved in the planning process. The proposal for the construction of the playfield and the maintenance of the Nallah was put forward by the Panchayat body, during which employee from your department authenticated the plan for approval from the competent authority, indicating that the work is being executed under convergence mode for which your approval is deemed to have been sought in advance.

Furthermore, the revenue authorities have visited the site and have apprised this office with Intikhab/Jamabandi, in which they have stated that the land is categorized as state land and that the construction/maintenance of the Nallah is in accordance with its original course, and there is no diversion at the site.

Whereas, it is imperative to clarify that the term "diversion," mistakenly used in some communications, is not applicable in this context. It refers simply to the maintenance/construction of the Nallah in its original course as demarcated by the revenue authorities under survey number 162.

Whereas, your letter results in some contradiction regarding the issuance of the NOC because your field officials from Sonium Panchayat have already approved the work by signing the GPDP.

Therefore, in light of the above facts, this report is submitted for information and clarification.

Yours Sincerely,
[Signature]
Block Development Officer
Lalpora

No: *BL/Ws/110A-51* Date: *28-02-2024*

Copy to the:

- Assistant Commissioner Revenue Baramulla for information.
- SDM Gulmarg for information and necessary action.
- Tehsildar Kunzer for information.

Attest
[Signature]
Sarpanch
Ghulam Mohammad Mulla
Hatqa PH-08, Sonium
Block Lalpora

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ANNEXURE-D

7-31/3/2024

03. That the representation was forwarded to Naib Tehsildar Chukar for verification and report.
04. That Naib Tehsildar Chukar verified the matter and it was found that the petitioners namely Ghulam Mustafa Malla S/o Gh Rasool Malla, Mohd Assadullah Malla S/o Gh Ahmad Malla, and Mohd Qasim Malla S/o Ali Mohd Malla, Ghulam Hussain Malla S/o Late Ghulam Rasool Malla and Ghulam Ahmad Malla S/o Ali Mohammad Malla have encroached the Shamilat deh Sec 4 / Kahcharie land at village Sonium falling under survey No.s 160,162,163, 403.
05. That the notice under the provisions of Land Revenue Act 1996 was served/issued to aforementioned petitioners (illegal encroachers) by the undersigned and they were directed to evict the land within 04 days.
06. That the illegal encroachers didn't obey the directions of this office and continuously made hurdles and intentionally tried to grab the Shamilat Sec 4 / Kahcharie land of village Sonium and this office didn't allow them to do so, and accordingly an anti-encroachment drive was carried out as per provisions of law.

No.TK/OQ/2023-24/810
Dated:-28/03/2024

Tehsildar Kunzer
Assistant Collector 1st Class

28/3/2024
TEHSILDAR KUNZAR

Attested

Ghulam Muhammad Malla
Sarpanch
Talqa PH-08, Sonium
Block Lalpora

05/2/2025

ANNEXURE-FCOURT OF SUB JUDGE PATTAN

Case File No.	Date of Institution	Date of Order
41/misc.	23.02.2024	09.03.2024

In the Case of:-

1. Ghulam Mustafa Malla
Son of Ghulam Rasool Malla
 2. Mohammad Assadullah Malla
 3. Ali Mohammad Malla
Both sons of late Ghulam Ahmad Malla
 4. Mohammad Qasim Malla
Son of Ali Mohammad Malla
 5. Ghulam Hussain Malla
Son of late Ghulam Rasool Malla
 6. Ghulam Ahmad Malla
Son of Ali Mohammad Malla
All Residents of village Sonim, Tehsil Kunzer
District Baramulla
- Plaintiffs/ Non-Applicants along with their
Counsel Adv Javeed Ahmad Parray present.

Versus

1. Union Territory of Jammu & Kashmir through
Commissioner Secretary to the Rural Development
Department at Civil Secretariat Srinagar/ Jammu
2. Assistant Commissioner Development Baramulla
3. Block Development Officer Lalpora Tangmarg
4. Tehsildar Kunzer
5. Ghulam Mohammad Malla
Son of Ali Mohammad Malla
6. Iqbal Hussain Malla
Son of Ghulam Hussain Malla
Both Residents of village Sonim Tehsil Kunzer District
Baramulla
7. Shabir Ahmad Sofi
Son of Ghulam Rasool Sofi
R/O, Kanloo Tehsil Pattan, District Baramulla

Defendant No.3/ Applicant herein along with his Counsel Advocate Touseef Gani and Adv Muneer Ahmad
Dar present.

In the matter of: - Application on behalf of defendant no.3/ applicant herein seeking
clarification as to whether any order has been passed by this court
against the applicant herein which debars the defendant no.

Ghulam Mustaf Malla & Ors., V/S, U.T of J&K & Ors.
Case File No 41/misc

Alkhalid

M. T. P. D.
Sarpanch
Ghulam Mohammad Malla
Halqa PH-08, Sonim
Block Lalpora

R6.12 Dynamic Report for Monitoring and details of works

Note: 1* Select all mandatory field then submit. 2* Work status will be ongoing in case expenditure analysis not equal to all.

State	District	Block	Panchayat
JAMMU AND KASHMIR	BARAMULLA	LALPORA	Soniium
Work Category	Proposed Status	Expenditure Analysis	Expenditure Estimates
ALL	ALL	ALL	ALL
Work Start Fin Yr	Work Status	Filter	
2023-2024	Completed	ALL	
Submit			

SNo	District Name	Block Name	Panchayat Name	Work Start Fin Year	Work Status	Work Code	Work Name	Master Work Category Name	Work Category Name	W	S	C
1	2	3	4	5	6	7	8	9	10			
1	BARAMULLA	LALPORA	Soniium	2023-2024	Completed	1402011023/IC/8808575546	Imp of kachan khul with drain at diff spots 5	A-PUBLIC WORKS RELATING TO NATURAL RESOURCES MANAGEMENT	Micro Irrigation Works			
2	BARAMULLA	LALPORA	Soniium	2023-2024	Completed	1402011023/IC/8808564909	Imp of Tangkhah khul at Soniium with P wall	A-PUBLIC WORKS RELATING TO NATURAL RESOURCES MANAGEMENT	Micro Irrigation Works			
3	BARAMULLA	LALPORA	Soniium	2023-2024	Completed	1402011023/AV/8808518163	Construction of 1 No. of Pedestal at Panchayat Halqa Soniium	D-RURAL INFRASTRUCTURE	Anganwadi/Other Rural Infrastructure			
4	BARAMULLA	LALPORA	Soniium	2023-2024	Completed	1402011023/IC/8908564908	Imp of Anulhama khul with syphon	A-PUBLIC WORKS RELATING TO NATURAL RESOURCES	Micro Irrigation Works			

[Download In Excel](#) Report last Updated on: 04/02/2025

05/2/2025

R6.12 Dynamic Report for Monitoring and details of works

Note: 1* Select all mandatory field then submit 2* Work status will be changing in case expenditure analysis not equal to all #

State	District	Block	Panchayat
JAMMU AND KASHMIR	BARAMULLA	LALPORA	Sonlum
Work Category	Proposed Status	Expenditure Analysis	Expenditure Estimates
ALL	ALL	ALL	ALL
Work Start Fin Yr	Work Status	Filter	
2024-2025	Completed	ALL	

Submit

SNo.	District Name	Block Name	Panchayat Name	Work Start Fin Year	Work Status	Work Code	Work Name	Master Work Category Name	Work Category Name	WORK TYPE as per new work creation Module
1	BARAMULLA	LALPORA	Sonlum	2024-2025	Completed	1402011023/KG/8808585588	1/6 layout are with filling n/L/o Rakesh kumar 1	A-PUBLIC WORKS RELATING TO NATURAL RESOURCES MANAGEMENT	Micro Irrigation Works	Construction of minor Canal for Community
2	BARAMULLA	LALPORA	Sonlum	2024-2025	Completed	1402011023/LD/8808578025	filling of abia mazar at sonlum 5	A-PUBLIC WORKS RELATING TO NATURAL RESOURCES MANAGEMENT	Land Development	Leveling/shaping of Wasteland of Land for Community

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03/applicant to proceed as per the provisions of law with respect to the land bearing Survey No. 162 and 163 in the above captioned suit.

CORAM: - Altaf Hussain Khan

U.I.D No. JK00187

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Annexure - F

ORDER

1. Instant application seeking clarification as to whether any order has been passed by this court against the defendant No.3/ applicant herein which debars him to proceed as per the provisions of law with respect to the land bearing survey no. 162 and 163 in the above captioned suit has been submitted by the Id. Counsel for the defendant No.3/ applicant herein on the ground that this court has been pleased to pass an interim order on 16-02-2024 by virtue which the defendants no 05 to 07 have been directed to maintain status quo with respect to the suit property till next date of hearing. Land measuring 18 Kanals and 25 Marlas falling under Survey No 162 situated at Sonim Tehsil Kunzer is SHAMILAT DEH Ghair Mumkin Nala

Ghulam Musta Malla & Ors., V/S, U.T of I&K& Ors.
Case File No41/misc

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Altaf Hussain
Sarpanch
Ghulam Mohammad Malla
Talqa PH-08, So.
Block Lalpora
5/2/2025

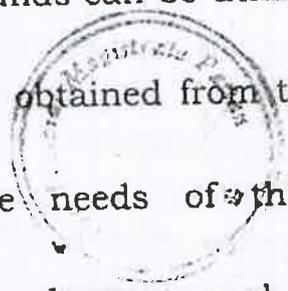
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Annexure - F

and the land measuring about 18 Kanals and 18 Marlas falling under Survey No 163 situated at Sonim Tehsil Kunzer is SHAMILAT DEH Mahfuz Khacharaic same is evidenced by the copy of Intikhabi Girdawari on record plaintiffs/non-applicants herein have made encroachments upon the water stream/nallah and upon the kahcharai land bearing survey no's aforesaid by planting various kinds of trees in order to grab the said landed property and to squeeze the said water stream/nallah. Revenue field agencies have also submitted report to the defendant no. 04 (Tehsildar Kunzer) regarding the said encroachments made by the plaintiffs/ Non-applicants upon the land and water stream aforesaid. Upon receipt of the report from the field agencies Tehsildar Kunzer has issued notices to the plaintiffs / non-applicants for removal of encroachments made by them upon the said

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Ghulam Mohammar
Halqa PH-06, 500
Block Lalpora

Annexure-F

nallah/water stream and the Kahcharaie land but the plaintiffs / non- applicants have failed to remove the same as a result a drive is being conducted by the Ld Tehsildar Kunzer for removal of encroachment in terms of provisions of JK Land Revenue Act so as to retrieve the water stream/nalla and the said kahcharai land in question to its original position. The defendant no 03/applicant herein for utilization of allotted funds for cleaning and clearing the already squeezed nallah and restore the same to its original position has undertaken certain works upon which the funds can be utilized and maximum possible benefits are obtained from the said works which shall cater the needs of the large population of the locality. Due to clearance and cleaning of said nallah is not being merged with the road in fact the said activity is being carried out in order to cater the needs of maximum number of individuals.



Annex
 Ghulam Mustafá
 Sarpanch
 Ghulam Mohammad
 Hafqa PH-08, So
 Block Lalpora
 5/2/2025

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agriculturalists by allowing free flow of water through the said nalla, but under the pretext of order dated 16-02-2024 passed by this Court the plaintiffs are misconstruing the said order and are not allowing the defendant no 03/applicant herein to proceed ahead in the matter as per the mandate of law. In case the funds allotted are not utilized at an earliest for allotted works same may lapse due to the closure of the ongoing financial year.

2. On the presentation of the application plaintiffs/non-applicants were put to notice. In pursuance to service supra Advocate Javeed Ahmad Parray has caused appearance on behalf of the plaintiffs/non-applicants, submitted objections to the application.

3. In the objections filed it is submitted that the application filed is misconceived both on the facts as well as on law. Same has been filed on false, frivolous

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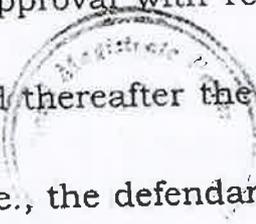
ANNEXURE-F

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grounds. The defendant No. 03 / Applicant has not approached to this Hon'ble Court with clean hands. He has taken recourse to concoction with intent to mislead this Court. Prior to the filing of the application in hand seeking clarification the defendant No. 03 / applicant as well as the defendant No. 04 have filed their replies separately and in his reply the defendant No. 03 / applicant has averred that he has received the landed property for the construction of the playfield from the defendant no. 04 after its retrieval from the encroachers and all the Codal formalities including the technical Sanction and the administrative approval with respect to the work has been obtained and thereafter the work has been assigned to the mates, i.e., the defendants no 06 & 07. The nomenclature of the work as per the annual Action Plan 2023-24 clearly indicates that fallacies of the defendant no. 03 / applicant , as the

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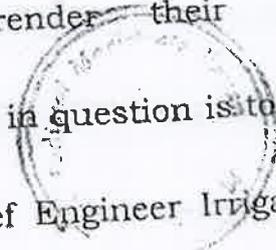



Sarpanch
Ghulam Mohammad Malla
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Block Lalpora
5/2/2025

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ANNEXURE-F

work in question has been sanctioned under MGNREGA under the name of "Diversion of the Nallah near Playfield at Sonium", while as the defendant no 03/applicant through the medium of the instant application has pretended to be acting for the desilting and dredging of the Nallah, without whispering a word about the assignment of the work to the defendants no 06 & 07 and without disclosing the actual nature of the work assigned to the defendants 06 & 07, thus given the reply filed by the applicant/defendant No. 03 his plea to carry out work pales into insignificance and in essence it is an attempt to negate the action of the Plaintiffs/non-applicants and render their suit infractous. Construction/diversion in question is totally against the law and norms. Chief Engineer Irrigation and Flood control /Jal Shakti Department Srinagar vide his Order/Circular No. 13614-638 dated 29-03-2021



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Ghulam Mustafa Malla
Sarpanch
Ghulam Mohammad Malla
Talqa PH-08, Sonium
Block Lalpora

ANNEXURE-F

banned construction of Culverts, bridges and tractor crossings etc, over the water bodies, such as rivers, Nallahs, streams and canals. N.O.C's already granted without consent of the I & F.C department have been rescinded abinitio, further the power to grant N.O.C's has been conferred upon the designated authority, viz., the Superintending Engineer Hydraulic Circle Srinagar once the proposal is examined in detail. No such NOC has been obtained for diversion of Nallah in question by the defendant no 03/applicant from the concerned competent authority, same is evidenced from the communication addressed by the Assistant Executive Engineer Tail Sub-division Kunzer bearing No. TRK/1110-12 dated 23-02-2024, calling upon the defendant No. 03 / applicant herein to stop the illegal and unauthorized construction work of the playfield at Sonim. The defendants no 06 & 07 while attempting to

Ghulam Musta Malla & Ors., V/S, U.T of J&K & Ors.
Case File No41/misc

Attest

Ghulam Mohammad Mulla
 Ex. Sarpanch
 Ghulam Mohammad Mulla
 Talqa PH-08, Sonim
 Block Lalpora
 5/2/2025

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ANNEXURE-F

divert the Nallah employed the Five JCB's on spot in violation of MGNREGA Guidelines, besides the same being done without the NOC from the concerned supervising authority of the Nallah/Stream by establishing his own illegal hegemony and after giving a go-bye to the law and the rules, which calls for an enquiry through the Vigilance Organization of the UT of Jammu and Kashmir, with respect to which the answering non-applicants are contemplating to file an appropriate motion and the matter came to be argued. Heard learned counsels for both the sides.

4. Ld. Counsel for the defendant no.3/ applicant has argued that this court has passed order against the private defendants 5 to 7 in ex-parte in the application for interim relief whereby this court has directed the defendants nos.5 to 7 to maintain status quo on spot with respect to suit property. Ld. Counsel has argued

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Sarpanch
Ghulam Mohammad Malla
Halqa PH-08, Soan
Block Lalpora

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ANNEXURE-F

that in the garb of present order plaintiffs/ non-applicants are not permitting the official defendants to carry out the work on spot and to retrieve the Kahcharie/ state land on spot. Ld. Counsel has submitted that it is the plaintiffs/ non-applicants who have encroached upon the land recorded as Kahcharie or stream / Nallah. In the garb of the present order they are intending to grab the same again. Learned counsel has also submitted that land measuring 18 Kanals and 15 Marlas bearing Survey no. 162 is recorded as Gair Mumkin Nalla and land bearing survey no. 163 is recorded as Mehfooz Kahcharie as such is the prohibited Shamilaat land. This court has no jurisdiction to adjudicate upon the same. The ld. counsel has also argued that in case the official defendants are going to convert the land as Nalla/ stream it is the concerned authorities who are

Ghulam Musta Malla & Ors., V/S, U.T of J&K & Ors.
Case File No41/misc

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Attest

Muhammad
Sarpanch
Ghulam Mohammad Malla
Talqa PH-08, Se.
Block Lalpora
5/2/2025

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ANNEXURE-F

empowered to remove the encroachment and to prevent its conversion. The ld. counsel has also argued that the plaintiffs/ non-applicants have no right over the suit land as such they cannot claim neither they have any right over the same. The Learned Counsel for the defendant no. 03/ applicant herein has also argued that the said work is being carried out under MGNREGA scheme formulated under GDPD programme, which is formalized and formulated at the grass-root level with the participation of all line departments which also includes the Department of Irrigation and Flood Control, whose one of the representatives/officials participated in the said meeting as such there is no requirement of obtaining any N.O.C from Irrigation and Flood Control department. Ld. Counsel has contended that they require the clarification to the extent that whether any order has passed by this court in the

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Ghulam Mohammad Malla
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Block Lalpora

ANNEXURE-F

application for interim relief bars the defendant no.3/
applicant herein to proceed ahead in the matter as per
the provisions of the law in respect of the land bearing
survey no. 162 and 163 as the same would clear the
confusion created in the garb of the status quo order
passed.

5. On the other hand ld. counsel for the plaintiffs/
non-applicants has argued that the defendant no.3 /
applicant herein seeks clarification to perpetuate the
wrong as they are going to convert the water stream into
playground that too without obtaining NO.C from
Executive Engineer irrigation and Flood control who is
competent authority under **Jammu & Kashmir Water
Resources (Regulation and Management) Act, 2010**
as conversion of the land recorded as a Nallah / stream
for any other purpose is not permitted unless N.O.C is
obtained by the concerned department from the

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ANNEXURE-F

authorities empowered under **Jammu & Kashmir Water Resources (Regulation and Management) Act, 2010**. The defendant no.3/ applicant is having no authority to convert the land recorded as a Nalla/ stream for any other purpose other than purpose for which it is meant. Conversion of the water stream/ Nahalla will affect the irrigation source of the adjacent land holders and will thereby render its catchment area barren. Clarification cannot be sought for reviewing the order passed. The land recorded as Nalla/ water stream has been encroached upon by the defendants. The plaintiffs being the residents of the area want to protect the same and to prevent its conversion. The executive engineer has denied the N.O. C to the defendant no.3 and he has not challenged the same. The defendant no 03/ applicant now is bent upon to go ahead with his illegal activities and seeks clarification just to cover up

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ANNEXURE-F

his wrong. As such clarification application submitted deserves to be dismissed. Executive Assistant Engineer Sub Division Kunzer has already issued a notice to the defendant no.3 / applicant calling upon to stop the illegal work of conversion on spot. Learned Counsel has relied upon;

1. Ram Chandra Singh, V/S Savitri Devi and Ors. AIR 2004 S.C

2. Mukul Agarwal & Ors, V/S, State of Uttar Pradesh & Anr. SCC Criminal Appeal No. 249 of 2020 in support of his arguments

6. Heard and considered the arguments. Perused the complaint, application for interim relief, application seeking clarification of the order passed in the application for interim relief, objections to the application and other

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Sarpanch
Ghulam Mohammad Malla
Talqa PH-08, Sotian
Block Lalpora

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material on record. I have also gone through the case law cited.

7. Plaintiffs / non-applicants herein have filed the suit captioned above on the plea they along with their respective co-sharers are the owners in possession of land bearing survey no. 165, 166 and 403 measuring 18 Kanals situated at Sonim. They have inherited the same from their ancestors. Land in question is being agricultural in nature and is source livelihood to them and their respective families. Rural Development department has through block office Lalpora has constructed the road through MGNREGA scheme using the river bed nallah material during the financial year 2022-23 adjacent to the landed properties of plaintiffs. Alongside the pathway a nallah/ water stream popularly known as Ara is passing through the land bearing Survey no's. 162, 163 and 403 which often remains at

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Halqa PH-08, Sonim
Block Lalpora

Annexure - F

the brim, particularly during the rainy season same acts as a drainage during flood and thereby safeguards the adjacent landed properties from being washed away. Nalla in question serves as a source of irrigation to the plaintiffs and other land as well. The defendants 2 and 3 on the behest of the private defendants are adamant to fill up the water stream/ nalla and change its course after merging the road with the same and to divert the same towards landed property of the plaintiffs/ non-applicants.

8. This court vide order dated 16.02.2024, has directed the defendants no 5 to 7 to maintain status quo on the spot with respect to the suit property subject to the objections from the other side. Order supra is still intact. The defendants have not submitted written statement or objections to the application for interim relief yet and instead of submitting written



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Handwritten date and initials: '5/2/2025' and 'Bhola'.

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statement/objections ,defendant no.3 / applicant herein has filed application in seeking clarification to the extent whether the order passed by this court in the application for interim bars the defendant no.3/ applicant herein to proceed ahead with the matter as per the provisions of law in respect of the land bearing survey no. 162 and 163 situated at Sonim on the ground that land measuring 18 Kanals 15 Marlas bearing Survey no. 162 is recorded as Gair Mumkin Nalla and land measuring 18 Kanal 18 Marlas bearing survey no. 163 is recorded as Mehfooz Kahcharie land. Plaintiffs/ applicants have encroached upon the same by planting trees so as to grab the land supra and to squeeze the water stream/ nalla. Tehsildar Kunzer defendant no.4 has after serving notices upon the Plaintiffs/ non- applicants herein and providing them opportunity of being heard directed them to remove

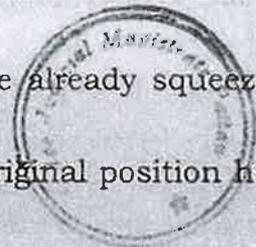


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Sarpanch
Ghulam Mohammad
Hajqa P.H.-08, S...
Block Lalpora

Annexure - F

encroachments from the land nalla/ water stream supra as well as the Kahcharie land however plaintiffs/ non-applicants have failed to remove the same as such drive is being conducted by Tehsildar Kunzer for removal of encroachments in terms of the land revenue Act. As such drive is being conducted by the Ld Tehsildar Kunzer for removal of encroachment in terms of provisions of JK Land Revenue Act so as to retrieve the water stream/nalla and the said kahcharaie land in question to its original position. The defendant no 03 / applicant there in for utilization of allotted funds for cleaning and clearing the already squeezed nallah and restore the same to its original position has undertaken certain works upon which the funds can be utilized and maximum possible benefits are obtained from the said works which shall cater the needs of the large population of the locality. Due to clearance and cleaning



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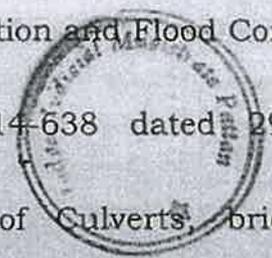
5/2/2025

of said nallah is not being merged with the road. In fact by cleaning nallah same is not being merged with the road, said activity is rather being carried out in order to cater the needs of maximum number of individuals, agriculturalists by allowing free flow of water through the said nalla, but under the pretext of order dated 16-02-2024 passed by this Court the plaintiffs are misconstruing the said order and are not allowing the defendant no 3/ applicant therein to proceed ahead in the matter as per the mandate of law. In case funds allotted are not utilized at an earliest for allotted works same may lapse due to the closure of the ongoing financial year.

9. On the other hand plaintiffs/ applicants in the objections filed has resisted the application on the ground that the defendant no.3/ applicant has not approached this court with clean hands. He has taken

Annex - F

recourse to concoction and fabrication. Defendants' no.3 and 4 have filed their reply separately and have contended that they have received the landed property for construction of the playfield from defendant no.4 after clearing the same from the encroachers. Work in question has been sanctioned under MGNREGA Scheme. Nomenclature of the work as per the annual action plan 2023-24 clearly indicates that work in question has been sanctioned under MGNREGA under the name of Diversion of Nalla near playfield Sonim. Construction/ diversion is totally against the law and norms. Chief Engineer Irrigation and Flood Control Vide Order/ Circular No. 13614-638 dated 29.03.2021 banned the construction of Culverts, bridges and tractor crossings etc over the water bodies, such as rivers, Nallahs, Streams and canals. No NOC has been obtained for the diversion in question by the



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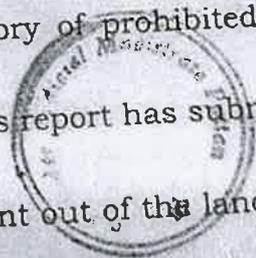
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Block Lalpura

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defendants. Defendant no.3 / applicant is going ahead with diversion process in violation of law.

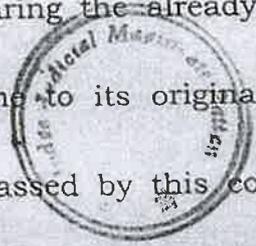
11. This court has passed the order in the application for interim relief in ex-parte to the extent that the defendants no 5 to 7 shall maintain status quo on spot with respect to the suit property. Land bearing survey no. 162 measuring 18 Kanals and 15 Marlas is recorded as Gair Mumkin Nalla and land measuring 18 Kanals 18 Marlas bearing survey no. 163 situated at Sonim is recorded as Mahfooz Kahcharie. Status of the land supra is not denied by either party to lis. Land supra falls within the category of prohibited shamilat land. Tehsildar Kunzar in his report has submitted that he has removed encroachment out of the land supra. In case defendant no.3/ applicant is intending to convert the land recorded as Gair Mumkin Nahalla without obtaining N.O.C from the A.E.E./ Executive Engineer



Annex - F

Irrigation and Flood Control plaintiffs are at liberty to approach the authorities empowered in this regard under **Jammu & Kashmir Water Resources (Regulation and Management) Act, 2010** as authorities mentioned in the Act supra are empowered to remove encroachment from the water stream / Nahalla and to prevent its conversion etc.

The ld. counsel for the defendant no.3/ applicant has rather submitted that they are using allotted funds for cleaning and clearing the already squeezed nallah and restore the same to its original position.



Order dated 16-02-2024, passed by this court in the application for interim relief is clear and unambiguous as by virtue of the aforesaid order this court has

directed only private defendants no 5 to 7 to maintain status quo on spot in respect of the suit property.

Status quo means that character, nature and features

All this

Ghulam Mustafa Malla
Ghulam Mustafa Malla & Ors.
Maalqa PH-08
Block Lalpora
5/2/2025

Annexure - F.

of the suit property shall not be changed in any manner. This court has not so far passed any order against official defendants including defendant no.3 in the above captioned application for interim relief as the defendants have not so far submitted objections to the same. Application requires no further proceedings same is accordingly disposed of be made part of the application for grant of interim relief. ✓

**Announced in open court
Today on 09.03.2024**
PA, Malik Showkat

Digitally signed by
ALTAH HUSSAIN KHAN
Sub Judge Pattan

copy of the order is forwarded to SHO D/S Pattan for information.

Altaf Hussain Khan
Judicial Magistrate (Pattan)
Faisalabad

Court of 1st Additional District Judge, Baramulla.

In the case of:

1. Gh. Mustafa Malla S/O Gh. Rasool Malla
2. Mohammad Assadullah Malla S/O Lt. Gh. Ahmad Malla
Both Residents of Sonium Tehsil Kunzer Dist. Baramulla
.....Appellants

Through: Adv. Javed Ah. Parry for appellants.

VERSUS

1. Union Territory of J&K through Commissioner Secretary to the Rural Development Department at Civil Secretariat, Sgr./Jmu.
2. Asst. Commissioner Development Baramulla.
3. Block Development Officer, Lalpora Tangmarg
4. Tehsildar Kunzer
5. Gh. Mohanmad Malla S/O Ali Mohammad Malla
6. Iqbal Hussain Malla S/O Gh. Hussain Malla
Both residents of village Sonium Tehsil Kunzer Dist. Baramulla
7. Shabir Ahmad Sofi S/O Gh. Rasool Sofi
R/O Kanloo Tehsil Pattan Dist. Baramulla
.....Contested Respondents
8. Mohammad Qasim Malla S/O Ali Mohammad Malla
9. Gh. Hussain Malla S/O Lt. Gh. Rasool Malla
10. Gh. Ahmad Malla S/O Ali Mohammad Malla
All Resident sof Village Sonium Tehsil Kunzer Dist. Bla.
.....Proforma Respondents.

Through: Nemo



In the Matter of:

Appeal against order dated 09.03.2024 passed by learned Sub-Judge/Civil Judge Sr. Division Pattan in the application made by respondent No. 3 for clarification.

And

Application for grant of interim relief.

Coram: Pawan Kumar Sharma
J.O.Code: JK00135

ORDER

1. The instant appeal has been assigned to this Court by learned Principal District Judge, Baramulla for disposal under law and was presented before this Court today. Let the appeal be diarized in the concerned register. Appellants along with counsel present. The appeal is filed-

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Sarpanch
Ghulam Mohammad
Malga PH-08
07/2/2025

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against the order dated 09.03.2024 (hereinafter referred to as **impugned order**) passed by learned Sub-Judge (Civil Judge Sr. Division) Pattan in an application preferred defendant No. 3 for clarification. Office is directed to issue notice to other side and put up on 30.03.2024.

IA/01/2023

Application seeking leave to file the appeal:

- 2. The appellants have filed this application seeking leave to file the above titled appeal on the strength of the photocopy of the impugned order with liberty to place on record the certificate copy as and when the same are available to them. On the grounds mentioned in the application, the appellants are allowed to file the appeal without certified copy and are directed to produce the certified copy of impugned order on next date of hearing. Application is disposed of and be made part of the appeal.

IA/02/2023

Application for grant of interim relief.

- 3. The appellants along with the appeal above captioned have made this application for grant of interim relief, which is supported by duly sworn affidavit. Issue notice to other-side in this application also, in the meanwhile the operation of impugned order dated 09.03.2024 shall remain stayed. Parties are also directed to maintain status-quo on spot with regard to suit property (briefly mentioned in the appeal). Scanned record of the case shall also be called from the trial Court. Put up on 30.03.2024.

Announced
09.03.2024

Y. P. J.
Ist Addl. District Judge,
Baramulla.

AKS

Not-25-34-101105/13
Dtd. 9/3/2024

Y. P. J.
Gulam Mohammad
Talqa PH-08, S...
Block Lalpora

*Copy of order placed with copy of affidavit
forwarded to appellate court for perusal
of appellate judge. No further order
required. P. J. J.
19/3/24
Ist Addl. District Judge,
Baramulla.*

124.
BEFORE THE HON'BLE COURT OF PRINCIPAL DISTRICT JUDGE
BARRAMULLA.

IN THE CASE OF:- Civil Appeal Captioned below:-

1. Ghulam Mustafa Malla aged 45 Years S/o Ghulam Rasool Malla.
2. Mohammad Assadullah Malla aged 62 Years son of Late Ghulam Ahmad Malla, both residents of Village Sonium Tehsil Kunzer & District Barramulla.

...Appellants.

Versus

1. Union Territory of Jammu & Kashmir through Commissioner Secretary to the Rural Development department at Civil Secretariat Srinagar/Jammu.
2. Assistant Commissioner Development Barramulla.
3. Block Development officer Lalpora Tangmarg.
4. Tehsildar Kunzer.
5. Ghulam Mohammad Malla S/o Ali Mohammad Malla.
6. Iqbal Hussain Malla S/o Ghulam Hussain Malla, both residents of Village Sonium Tehsil Kunzer & District Barramulla.
7. Shabir Ahmad Sofi S/o Ghulam Rasool Sofi R/o Kanloo Tehsil Pattan & District Barramulla.

.....Contested Respondents.

8. Mohammad Qasim Malla aged 55 Years S/o Ali Mohammad Malla.
9. Ghulam Hussain Malla aged 60 Years S/o Late Ghulam Rasool Malla.
10. Ghulam Ahmad Malla aged 56 Years S/o Ali Mohammad Malla, all residents of Village Sonium Tehsil Kunzer & District Barramulla.

...Pro-forma respondents.

IN MATTER OF:-Appeal against the order dated 09-03-2024 passed by Sub-judge/Civil Judge Senior Division Pattan in the above captioned Civil Suit on the application for clarification made by the respondent No. 03.

May it please your Honour.

The appellants most humbly submit as under:-



Alhams

Ghulam Mohammad Malla
Sarpanch
Jalqa PH-08, Se
Block Lalpora
5/2/2025

1. That the appellants are the residents of the Union Territory of J&K and are residing at Sonium Pattan, within the jurisdiction of this Hon'ble Court, as such are within their rights to invoke the jurisdiction of this hon'ble court for the protection & enforcement of their rights
2. That the appellants have no other alternative and efficacious remedy other than the present appeal, further the appellants have not approached to any other court or forum in the present cause, other than this Hon'ble court by way of the present appeal.
3. That the brief facts giving rise to the instant appeal are as under:-

- a. That the appellants along with their respective co-sharers are the owners in possession of the landed property falling under Survey Numbers 165, 166 and 405 measuring 18 Kanals situated at Mouza Sonium Kunzer, having inherited the same from their ancestors and the landed property in question being agricultural in nature is serving as a source of livelihood for the appellants and their respective families, for the proper cultivation and utilization of which the rural development department has through Block Office Lalpora constructed the road under the MGNREGA Scheme by the use of the river bed/Nallah Mukh material during the financial Year 2022-2023.
- b. That adjacent to the landed properties of the appellants and alongside the pathway there runs a Nallah/Water Stream, popularly known by the name of Ara in Kashmiri dialect through the Survey Numbers 162, 163 and 403, which often remains at the brim, particularly during the rainy season and acts as a source to drain out the flood waters and thereby safeguards the adjacent landed properties from getting washed away. The water stream/Nallah serves as a source of irrigation for the appellants and the lower riparian owners as well. It is worthwhile to mention over here that the stream/Nallah is existing on the spot from times immemorial.
- c. That since the stream in question serves as a backbone for the agricultural and horticultural operations in the area, besides serving as a source to drain out the flood waters and saving and

safe-guarding the agricultural and horticultural fields in the areas adjacent to which the same is passing through.

(2) That the respondent No 03 under a well-knit conspiracy with the private respondents 06 & 07 managed to sanction the work of the diversion of the Nallah/water stream near play field Sonium with an intent to convert the same into the play field, however, given the prohibition provided by the law against the conversion of the water bodies the technical sanction as well as the administrative approval has been accorded for the work, "**development of the play field at Sonium**" thus the defendants 06 and 07 started to executed the work of the diversion of the Nallah in the immediate vicinity of the landed property of the appellants as well as the pro-forma respondents without following the procedure established by the law and thereby endanger the proprietary land of the appellants, thus the appellants and the pro-forma respondents filed the civil suit caption Ghulam Mustafa Malla & others v/s Union Territory of J&K & others before the Hon'ble Court of Sub-judge Pattan, herein-after called the Ld. Court below and the Ld. Court below passed an ex-parte order in the case on 16-02-2024 and thereby directed the respondents 06 & 07 to maintain the status quo on the spot with respect to the subject matter of the suit. The copy of the order is annexed herewith for the kind perusal of this Hon'ble Court and is marked as **ANNEXURE A-1**.

- a. That the respondents 02 & 03 filed their reply separately on 19-02-2024, in which the respondent No. 03 contended to taken over the landed property recorded under Survey Numbers 162, 163 and 403 from the defendant No. 02 for the construction of the playground/playfield at Sonium and the respondent No. 02 stated in his reply that the work after the spot alignment has been handed

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over to the mates, i.e., the respondents 06 & 07, while as the respondent No. 02 remained tight lipped and did not utter a word about the handing over the Nallah to the defendant No. 03 for development of the play-field.

- b. That it is worthwhile to mention over here that the NOC sought by the respondent No. 03 from the department holding control of the Nallah as per Section 81 of the J&K Water Resources Act 2010, viz., the I&F Department has been denied and the respondent No. 03 has been required to undone the violation affected by him on the spot by the Executive Engineer Irrigation and Flood Control Tail Race Kunzer vide his order dated 23-02-2024. The copy of the order is annexed herewith as ANNEXURE A-2.
- c. That after filling his reply the respondent No. 03 as an afterthought preferred to file an application for clarification before the Ld. Court below and thereby in disguise sought modification of the order dated 16-02-2024 by pretending that the order has been passed only against the respondents 06 & 07, as such he is not debarred to carry-out the construction and the Ld. Court below after obtaining the objections from the appellants in essence modified the order dated 16-02-2024 by passing and order of clarification on 09-03-2024 by holding that no orders have been passed against the respondent No. 03, thus granted a lease to the respondent No. 03 to render the suit of the appellants as infructuous and allow the respondent No. 03 to affect conversion of the Nallah into the play-field. The copy of the order is annexed herewith and is marked as ANNEXURE A-3.
4. That the appellants are aggrieved by the order Dated 09-03-2024, i.e., the ANNEXURE A-3, herein-after called the impugned order and assail the same on the following grounds, which are taken in alternative and without prejudice to each other.

- g) That the observations about the lack of jurisdiction by the Ld. Court below in the impugned order indicates that the facts of the case have been misconceived by the Ld. Court below, in that the appellants have not claimed any ownership right over the state land and the land recorded and existing as Gair-Mumkin Nallah and there endeavour is to safe-guard their own proprietary land against any damage that may ensue due to the diversion of the Nallah, which is triable by only the civil court, therefore, the impugned order is bad in the eyes of the law and the same merits to be set-aside.

- h) That the appellants reserve their right to urge further grounds at the time of the arguments.

In the premises it is, therefore, prayed that the appeal be accepted and the impugned order be reversed and set-aside. For the same would be in consonance with the law and justice.

Appellants through counsel.

Attest

M. J. K.
Sarpanch
Annam Mohammad Mulla
Majra PH-08, Seran
Block Lalpura

GROUNDS

- a) That the impugned order is illegal, illogical and has been passed on extraneous considerations, as such the same is not sustainable in the eyes of the law, thus merits to be set-aside.

- b) That the impugned order is arbitrary, capricious and has been passed without the application of judicial mind, as the same stands passed in a casual and cavalier manner, as such the same merits to be set aside.

- c) That the impugned order in essence is modification of the ad-interim order dated 16-02-2024, in that the respondent No. 03 in his reply filed on 19-02-2024 has admitted to have handed over the work for the execution to the respondents 06 & 07, thus under such circumstances the respondent No. 03 is persona non-grata in so far as the execution of the work on the spot is concerned and the Ld. Court below instead of proceeding to have issued the clarification of the order dated 16-02-2024 ought to have decided the interim application on merits, by considering the loss likely to be caused to the proprietary land of the appellants by the diversion of the Nallah to the vicinity of their land, thus the impugned order is bad in the eyes of the law, hence the same merits to be set-aside.

- d) That the respondent No. 03 is taking the law into his own hands by illegally converting the Nallah/Water Stream into the playfield. It is submitted that as per Section 31 of the J&K Water Resources Management Act 2010 the Water Bodies, including streams, rivers, Nallahs and Springs, etc., are with the control of the I&FC Department and no diversion or conversion can be made unless NOC is obtained from the I&FC Department. In the present case the motion for the NOC

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BEFORE THE HON'BLE COURT OF PRINCIPAL DISTRICT
JUDGE AT BARRAMULLA.

IN THE CASE OF:- Civil appeal Captioned below:-

1. Ghulam Mustafa Malla aged 45 Years S/o Ghulam Rasool Malla.
2. Mohanumad Assadullah Malla aged 62 Years son of Late Ghulam Ahmad Malla, both residents of Village Sonium Tehsil Kunzer & District Barramulla.

...Applicants.

Versus

1. Union Territory of Jammu & Kashmir through Commissioner Secretary to the Rural Development department at Civil Secretariat Srinagar/Jammu.
2. Assistant Commissioner Development Barramulla.
3. Block Development officer Lalpora Tangmarg.
4. Tehsildar Kunzer.
5. Ghulam Mohammad Malla S/o Ali Mohammad Malla.
6. Iqbal Hussain Malla S/o Ghulam Hussain Malla, both residents of Village Sonium Tehsil Kunzer & District Barramulla.
7. Shabir Ahmad Sofi S/o Ghulam Rasool Sofi R/o Kanloo Tehsil Pattan & District Barramulla & others.

...Non-applicants.

IN THE MATTER OF:- Application for the grant of interim relief.

May it please your Honour.

The applicants most humbly submit as under:-

1. That the applicants have filed the above captioned appeal before this Hon'ble court which is pending for disposal.
2. That the applicants have a very strong prima facie case and are sure to succeed on its merits.


Sarpanch
Ghulam Mohammad Malla
Talqa PH-08, Sonium
Block Lalpora

131.

That the balance of convenience lies in favour of passing an order of interim relief to stay the operation of the impugned order, for otherwise the applicants are sure to suffer an irreparable loss, which cannot be atoned by any amount of compensation in terms of money later on.

4. Hence this application.

5. That the applicants crave the leave of this hon'ble court to rely upon, refer to and adopt in extenso the averments made in the main appeal for the disposal of the instant interim application also.

In the premises it is therefore prayed, that pending disposal of the main appeal the operation of the impugned order dated 09-03-2024 be stayed. For which act of kindness the applicants as are duty bound in law shall ever pray.

Applicants through counsel.

Annexure - H

132

Government of Jammu & Kashmir
Office of The Sub Divisional Magistrate Gulmarg

Email Id: - sdmgulmarg@jksdgm.gov.in

Phone/Fax: 01954-254635

Subject: Execution of Work- Providing of NOC, thereof (Development of Playfield at Sonium side at Halqa Sonium).

ORDER

As requested by the Executive Engineer F.B.I Division Tangmarg vide no. FBID/8104-07 Dated; 09/03/2024 a joint team of below mentioned officers is hereby constituted who shall visit the spot and shall ascertain the actual proposal which can be executed on ground without any damage to the existing course of nalah.

1. Tehsildar Kunzer.
2. Block Development officer Lalpora.
3. AEE Irrigation Sub Division Kunzer.
4. Zildar Canals Kunzer.
5. Area Incharge Geology and Mining Department.

No: - SDM/G/2024/2246-50
Dated: 11/03/2024


Sub Divisional Magistrate
Gulmarg

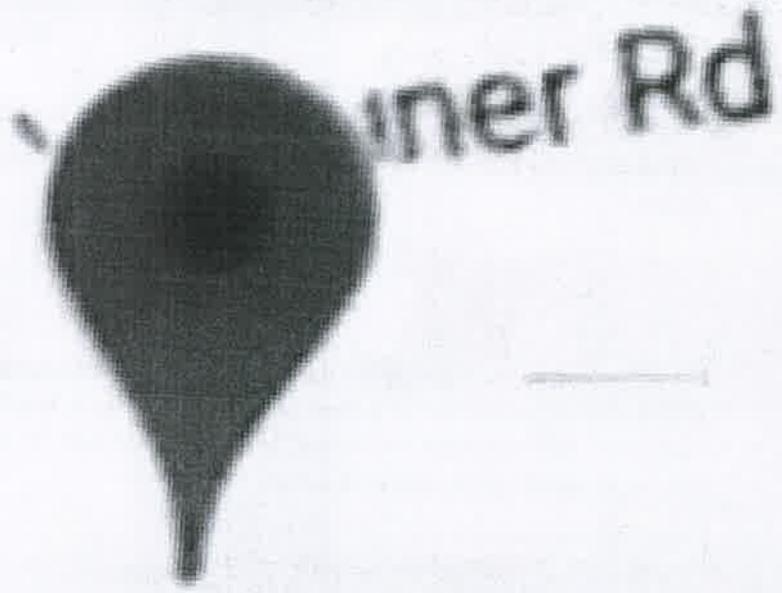
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Sub Divisional Magistrate
Gulmarg
11/03/2024

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Annexure-K

134.

Government of Jammu and Kashmir

OFFICE OF THE TEHSILDAR KUNZER

اسسٹنٹ کلکٹر درجہ اول / ایکزیکیوٹیو مجسٹریٹ درجہ اول

Executive Magistrate Class 1st / Assistant Collector 1st Class

Email, tehkunzer-rev@jk.gov.in / tehsilofficekunzer@gmail.com

The Sub Divisional Magistrate,
Gulmarg.

Subject: Execution of Work-providing of NOC, thereof (Development of playfield at Sonium side at Halqa Sonium)

Sir,

In compliance to the order issued from your office vide No. SDM/G/2024/2246-50 Dated: 11/03/2024, it is submitted that on 13/03/2024, all the team members including undersigned along with Patwari Halqa Concerned were present on spot. The Demarcation was conducted in presence of Block Development Officer Lalpora, AEE Irrigation Sub Division Kunzer, Zildar Canals Kunzer, Area Incharge Geology & Mining Department and original course of Nallah was shown to the team members, and public who were present on spot.

It is pertinent to mention that the original course of Nallah/Kuhl has not been changed.

Hence the report is submitted for favor of further necessary action at your end

No. TK/OQ/2023-24/700-05

Dated: 14/03/2024

Yours faithfully

Tehsildar Kunzer
TEHSILDAR KUNZER

Copy to the :

1. The Block Development Officer Lalpora for information
2. The Assistant Executive Engineer Irrigation Sub Division Kunzer, for information
3. The Zildar Canals Kunzer for information
4. The Area Incharge Geology & Mining Department for information
5. File for records.

5/2/2025

Email Id: -

Phone/Fax: 01954254635

Government of Jammu & Kashmir

OFFICE OF THE SUB DIVISIONAL MAGISTRATE GULMARG

The Executive Engineer,
FBI Division Tangmarg.

Subject: Execution of Work-providing of NOC, thereof (Development of playfield at Sonium side at Halqa Sonium.

Sir,

Anent the subject, In continuation to your endorsement no. FBID/8104-07 Dated 09/03/2024, a team of officers/ officials vide this office order no. SDM/G/2024/2246-50 Dated: 11.03.2024 was constituted, wherein the constituted team was directed to visit the spot and shall ascertain the actual proposal which can be executed on ground without any damage to the existing course of Nallah. In this regard the report sought from the constituted team vide no. TK/OQ/2023-24/700-05 Dated 14.03.2024 reveals that original course of Nallah/ Kuhl has not been changed (copy enclosed).

In this context you are requested to take appropriate necessary action in this regard under intimation to this office.

No: - SDM/G/2024/ >>88
Dated: 15/03/2024

Yours Faithfully,

[Signature]
Sub Divisional Magistrate
Gulmarg

[Signature]

[Signature]
Sarpanch
Ghulam Mohammad Mulla
Halqa PH-08, So.
Block Lalpora
5/2/2025

Government of Jammu and Kashmir
OFFICE OF THE TEHSILDAR KUNZER

اسسٹنٹ ملاکڑ درجہ اول / ایگزیکوٹو مجسٹریٹ درجہ اول
 Executive Magistrate Class 1st / Assistant Collector 1st Class

The Sub Divisional Magistrate,
 Gulmarg.

Subject: Execution of Work-providing of NOC, thereof (Development of playfield at Sonium side at Halqa Sonium)

Sir,

In compliance to the order issued from your office vide No. SDM/G/2024/2246-50 Dated: 11/03/2024, it is submitted that on 13/03/2024, all the team members including undersigned along with Patwari Halqa Concerned were present on spot. The Demarcation was conducted in presence of Block Development Officer Lalpora, AEE Irrigation Sub Division Kunzer, Zildar Canals Kunzer, Area Incharge Geology & Mining Department and original course of Nallah was shown to the team members, and public who were present on spot.

It is pertinent to mention that the original course of Nallah/Kuhl has not been changed.

Hence the report is submitted for favor of further necessary action at your end

No. TK/OQ/2023-24/700-05

Dated: 14/03/2024

Yours faithfully

Tehsildar Kunzer

Copy to the :

1. The Block Development Officer Lalpora for information
2. The Assistant Executive Engineer Irrigation Sub Division Kunzer, for information
3. The Zildar Canals Kunzer for information
4. The Area Incharge Geology & Mining Department for information
5. File for records.

Almas

Shulam Mohammad
 Halqa PH-08, Sonium
 Block Lalpora
 5/2/2025

Email Id: - sdmgulmarg2014@gmail.com

Phone/Fax: 01954254635

Government of Jammu & Kashmir

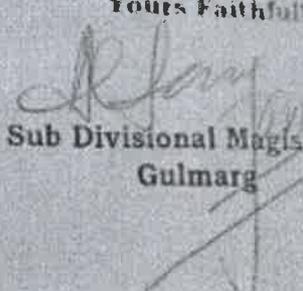
OFFICE OF THE SUB DIVISIONAL MAGISTRATE GULMARG**The Block Development Officer,
Lolpora****Subject:- Execution of Work- providing of NOC, thereof (Development of
playfield at Sonium side at Halqa Sonium.**

Sir,

Kindly find herewith a copy of communication received from the Executive Engineer FBI Division Tangmarg (copy enclosed), and communication received from the Office of Tehsildar Tangmarg (copy enclosed) wherein it has been communicated that original course of nallah/ khul has not been changed.

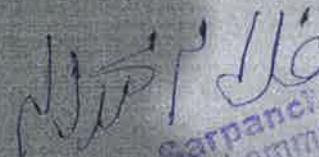
In this regard you are directed to proceed ahead without further delay in executing the subject work. Action taken report be submitted to this office at an earliest.

Yours Faithfully


Sub Divisional Magistrate
Gulmarg

No: - SDM/G/2024/346

Dated: 16/03/2024

Attested
Sarpanch
Jam Muhammad Nalla
08, Lolpora

5/2/2025