

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**

[Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, CJ.

Civil PLA No.29 of 2021  
Civil Misc. No.38 of 2021  
(Filed on 23.02.2021)

Muhammad Iqbal

.....PETITIONER

VERSUS

Custodian Evacuee Property & others

..... RESPONDENTS

[On appeal from the judgment of the High Court dated  
11.01.2021 in writ petition No.570 of 2020]

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(Application for interim relief)

FOR THE PETITIONER: Mr. Kamran Tariq,  
Advocate.

FOR RESPONDENT No.6: In person.

Date of hearing: 22.06.2021

**ORDER**

**Raja Saeed Akram Khan, CJ**– The captioned petition for leave to appeal has arisen out of the judgment of the High Court dated 11.01.2021, whereby the writ petition filed by the petitioner, herein, has been dismissed in limine.

2. The respondents No.5 to 14, herein, filed a review petition before the Custodian Evacuee Property on 19.09.2019 challenging the Proprietary Rights Certificate No.1934 issued in favour of the petitioner, herein, vide order dated 06.07.1983. The review petition was accepted through order dated 24.11.2020 and the aforesaid Certificate was cancelled while declaring respondents No.5 and 6, herein legal heirs of the original allottee. Respondent No.5, herein, filed an application before the learned Custodian for correction of some clerical mistakes. The application was accepted vide order dated 07.12.2020 and the corrections prayed for were allowed. The petitioner filed a writ petition before the High Court, however, the same has been dismissed through the impugned judgment.

3. The learned counsel for the petitioner stated that the impugned judgment of the High Court is against the law. The learned Custodian ordered for correction in the judgment without issuing notice to the petitioner, whereas, section 43(6) of the Administration of Evacuee Property, requires that an order cannot be passed without issuance of notice to the respondents. In this regard, the learned counsel placed reliance on

the cases reported as 2016 SCR 480 and AIR 1943 Patna 72. He added that the learned High Court illegally dismissed the writ petition in limine, whereas, in view of the propositions involved the same was liable to be admitted for regular hearing. As important legal propositions are involved, hence, grant of leave is justified.

4. Respondent No.6 appeared in person and stated that the orders passed by the Custodian as well as the High Court are well-reasoned and call for no interference by this Court.

After hearing the learned counsel for the petitioner as well as the respondent, I am of the view that the proposition whether the clerical mistake, like the disputed one, can be corrected without issuance of notice; requires detailed deliberation. Leave to appeal is, therefore, granted. The petitioner shall deposit security of Rs.1,000/- within a period of one month otherwise the leave granting order shall automatically stand rescinded. The office shall proceed further according to rules.

CHIEF JUSTICE

Mirpur,  
22.06.2021