

**THE COURT OF FINANCIAL COMMISSIONER REVENUE
(COMMISSIONER AGRARIAN REFORMS)
JAMMU AND KASHMIR AT JAMMU**

FILE NO.
71/FC-AP

DATE OF INSTITUTION
01.04.2010

DATE OF DECISION
24.06.2015

1) AMIT KUMAR GUPTA S/O VIJAY KUMAR GUPTA R/O SUBHASH NAGAR, JAMMU (THROUGH ATTORNEY HOLDER HIMMAT SINGH S/O MANGAL SINGH R/O 449-DOGAR NAGAR, CHAK CHANGARWAN, TEHSIL AND DISTRICT JAMMU).

(PETITIONER)

VERSUS

1) PRETABHA KHULLAR D/O OM PARKASH R/O H. NO. 43, AFGANA MOHALLA, JAMMU;

2) MADHU SETHI D/O -----DO-----;

3) NEELAM KHANA D/O -----DO-----;

4) PUSHPA KHULLAR WD/O -----DO-----;

5) VIPAN KHULLAR S/O -----DO-----;

(RESPONDENTS)

6) THE TEHSILDAR JAMMU.

(PROFORMA RESPONDENT)

In the matter of:

Revision against the order dated 29.05.2010 passed by the court of the Settlement Officer (Collector), Jammu whereby he has dismissed the appeal and upheld the order dated 09.12.2009 passed by the Tehsildar (S) Jammu for restoration of land measuring 04 Kanals and 19 Marlas falling under Khasra No. 189 in village Chak Changrawan, Tehsil and District Jammu.

For Petitioner --- Advocate Devender Sharma
For Respondents --- *Ex Parte*

J U D G E M E N T

- 1) The present controversy concerns land measuring 04 Kanals and 19 Marlas falling under Khasra No. 189 in village Chak Changrawan, Tehsil and District Jammu. This land came under the purview of the Agrarian Reforms Act, 1976 and consequently, all rights, interests and title of the ex owner over the same were extinguished and vested in the state. Later, the ex owner resumed the same for personal bonafide cultivation and a mutation No. 998 was attested in this regard. But physical possession of the land in question was not taken over by him. The present cause of action arose when the respondent No. 1 applied to the Tehsildar (S) Jammu for demarcation and physical possession of the said land. The Tehsildar concerned after doing the needful handed over the possession to them vide his order dated 09.12.2009.
- 2) This order of the dispossession of the petitioner was challenged in appeal before the Settlement Officer (Collector), Jammu. The subordinate court heard both the parties and observed that the act of the Tehsildar concerned has not violated any of the rights of the petitioner herein. He has handed over the possession complying with the mutation order No. 998 and dismissed the appeal.
- 3) Dissatisfied, the petitioner herein has questioned the validity of the order passed by the Settlement Officer, Jammu in revision before this court on various grounds. The proceedings of the case file shows that when after filing the revision, the petitioner absented himself for four consecutive hearings, the case was dismissed in default on 22.01.2014. Later, he filed an application for its restoration citing certain reasons and this court felt it just and proper to restore the revision petition to its original status vide order dated 02.04.2014 after imposing a fine of Rs. 1000/- on the petitioner. Later, as the respondents continued to cause absence throughout the proceedings, they were set *ex parte* on 25.08.2014.

- 4) While considering the respective claims forwarded by the parties, it is observed that the petitioner is not aggrieved of the order of passed on the mutation No. 998. He has nowhere disputed the right of the respondents to the land in question. The only issue which bothers him is with regard to the demarcation of the land. But after demarcation, the possession has been passed on to the respondents. At this moment, it will not be viable to question the demarcation proceedings. At the most, another demarcation can be ordered by this court if the party so chooses or in the alternative, the aggrieved party may prefer a suit in a civil court under Sec. 95 of the Land Revenue Act, 1996 (Smt.). However, the allegation about alienation of some land in violation of the Agrarian Reforms Act, 1976 shall have to be separately enquired into.
- 5) Having considered the facts and circumstances of the case and for the reasons aforesaid, the order dated 29.05.2010 passed by the court of the Settlement Officer (Collector), Jammu is upheld. The petitioner is at liberty to prefer any of the two ways spelt out above. The case is remanded to the Tehsildar concerned for an enquiry in the matter to see as to whether any of the provisions of the Agrarian Reforms Act, 1976 have been transgressed or not, as the petitioner alleges some alienation of land, and to take appropriate further necessary action thereafter. No costs. Interim directions, if any, shall stand vacated. The case file be relegated to records after due completion.

Sd/-
(Dr. Arun Kumar) IAS
Financial Commissioner Revenue
(Commissioner Agrarian Reforms)
Jammu and Kashmir, Jammu

Announced today on this the **24th day of June, 2015** under my hand and Seal of this Court.