

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

<u>FILE NO.</u>	<u>DATE OF INSTITUTION</u>	<u>DATE OF DECISION</u>
<b>519/FC/ARC-AP</b>	<b>25.06.2008</b>	<b>06.01.2015</b>

- 1) BALBIR SINGH S/O LATE PURAN SINGH R/O SHAMA CHAK, JAMMU;
- 2) JOGINDER SINGH S/O ANANT SINGH R/O -----DO-----;
- 3) PARSHOTAM SINGH S/O -----DO-----;
- 4) SURINDER SINGH S/O -----DO-----;
- 5) NIRMAL KUMARI D/O -----DO-----;
- 6) NEELAM KUMARI D/O -----DO-----;
- 7) SHINA KUMARI D/O -----DO-----;
- 8) SUKHDEV SINGH S/O LATE KABAL SINGH R/O -----DO-----;
- 9) PARKASHO DEVI W/O -----DO-----;
- 10) SANTOSH KUMARI D/O -----DO-----;
- 11) SHOBHA KUMARI D/O -----DO-----;
- 12) BUA D/O -----DO-----;
- 13) SUMAN KUMARI D/O -----DO-----;
- 14) DALJIT SINGH S/O LATE PURAN SINGH R/O -----DO-----;
- 15) DEVINDER KUMAR S/O -----DO-----;
- 16) MEENU KUMARI D/O -----DO-----;
- 17) RAGHBIR SINGH S/O LATE ATMA SINGH R/O -----DO-----;
- 18) RANJIT SINGH S/O -----DO-----;
- 19) KULDIP SINGH S/O -----DO-----.

**(APPELLANTS)**

**VERSUS**

- 1) JOGINDER SINGH S/O LATE JASWANT SINGH R/O VILLAGE SHAMA CHAK,  
TEHSIL AND DISTRICT JAMMU;
- 2) MOHINDER SINGH S/O -----DO-----;
- 3) SURINDER SINGH S/O -----DO-----;
- 4) BISHAN SINGH S/O -----DO-----.

**(RESPONDENTS)**

In the matter of:

**A) Appeal against order dated 31.10.1984 passed on mutation No. 303 of village Chak Mahni, Tehsil and District Jammu attested under Sec. 4 of the Agrarian Reforms Act, 1976 by virtue of which Jaswant Singh, father of respondents herein was declared as Prospective Owner of land measuring 34 Kanals and 11 Marlas falling under Khasra No. 87 (17K-05M) and 87 min. (17K-06M);**

**B) Remand case dated 20.09.2007 made by the J&K Special Tribunal in the above stated appeal.**

For Appellants --- Advocate K.S.Chib

For Respondents --- Advocate R.P.Sapolia

### **ORDER**

- 1) The present case has had a long history of acrimony between the parties since, the J&K Big Landed Estates Abolition Act, 2007 (Bk.) came into force. Initially, the predecessors-in-interest of the ascendants of the appellants and respondents were fighting over the disputed land and now the controversy has reached the present generation. For the last many years, the case has also been sailing from one revenue court to another. What's more, the matter has reached the civil courts, the J&K Special Tribunal, the Hon'ble High Court of J&K and even the Hon'ble Supreme Court of India but still, the controversy has not come to rest.
- 2) In brief, the dispute pertains to the land measuring 71 Kanals and 08 falling under Khasra No. 87 (34K-11M), 40 (18K-06M) and 50 (08K-14M) in village Chak Mahni and 256 (09K-17M) in village Amb, Tehsil and District Jammu. In the chequered history of the long drawn

litigation between the parties, the judgement pronounced by the Hon'ble Supreme Court observing the matter from diverse angles is significant and binding. The Apex Court had opined that the objective of the Big Landed Estates Abolition Act, 2007 (BK.) was to eliminate big estates and to confer ownership rights on the actual tillers of the soil. The Hon'ble court was examining the orders passed the J&K Special Tribunal and the Hon'ble High Court of J&K wherein it was held that the respondents/Predecessor-in-interest were not in actual cultivation of the land under consideration and therefore no rights could accrue to them towards any conferment of ownership. The Hon'ble Apex court made a mention of an extract incorporating an order correcting the entry that the respondents were in actual possession on the determinant date, but that extract was not taken into consideration by the Hon'ble court.

- 3) In addition, pending disposal of the present case, this court had directed the Tehsildar Settlement, Jammu to conduct a fresh enquiry in the matter keeping in view the provisions of the Big Landed Estates Abolition Act, 2007 (Bk.), Agrarian Reforms Act, 1976 and other relevant laws for the time being in force. He was further directed to accordingly pass appropriate orders after hearing all the interested parties in the light of changes that may have taken place during this period. Vide letter No. Teh/M/2014-15/343 dated 18.11.2014, the Tehsildar concerned intimated that he conducted a detailed enquiry into the matter after hearing both the parties on the spot and that he has passed an order dated 05.11.2014 under Sec. 8 of the Agrarian Reforms Act, 1976 with regard to the land measuring 33 Kanals and 10 Marlas falling under Khasra No. 87 and 87 (Min.). Further, he has requested this court for directions on the remaining 27 Kanals of land falling under other Khasra numbers for the attestation of mutation in

favour of Joginder Singh and others. It appears that the possession of this land has now passed on to the appellants.

4) An examination of the report of the Tehsildar concerned and the related revenue record shows that land measuring 01 Kanal and 14 Marlas out of the land that has been covered under the mutation attested under Sec. 8 of the Agrarian Reforms Act, 1976 is shown as **Gair Mumkin Makan**. There is an altogether different procedure in the said Act to deal with such lands. In addition, the observation made by the Tehsildar regarding the fact that under the Big Landed Estates Abolition Act, the appellants/ predecessor in interest were eligible for conferment of ownership rights on 20 Kanals of land only is totally wrong. Sec. 5 (6) of the said Act is amply clear in this regard which provides that any person who possessed rights of occupancy in the land of which right of ownership is extinguished, shall be granted in ownership a unit of 1/3<sup>rd</sup> or 20 Kanals, whichever is greater, in the Jammu province with some other related conditions. What is more, the Tehsildar concerned has made an enquiry on the spot and has also gone through the record and is of the view that the respondents herein or their predecessor in interest was in the actual possession of the land. Now, the more significant question is as to whether they were actually tilling the soil on the crucial date or not?. Anyway this court is of the considered opinion that the land under consideration should be dealt with under the Big Landed Estates Abolition Act.

5) Thus, keeping in view the facts and circumstances of the case, mutation No. 303 attested under Sec. 4 of the Agrarian Reforms Act, 1976 and the subsequent mutation dated 05.11.2014 attested under Sec. 8 of the said Act are set aside. The matter is remanded to the Tehsildar concerned for a **de novo** enquiry into the matter with special

reference to the observations made by the Hon'ble Supreme Court of India. The order passed by any subordinate Revenue Officer under the Agrarian Reforms Act, 1976 shall not come in the way of disposal of the case. The enquiry shall be conducted on the spot and in presence of both the parties as well as other respectable citizens of the area including the Lamberdar and the Chowkidar. No costs. Interim directions, if any, shall stand vacated. Case file be relegated to record after due completion.

**Sd/-**

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

Announced today on this the **06<sup>th</sup> day of  
January, 2014** under my hand and Seal of  
this Court.