

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

FILE NO  
/FC-AP

DATE OF INSTITUTION  
06.12.2014

DATE OF DECISION  
28.05.2015

- 1) BANSI LAL S/O KRISHAN DUTT R/O NARWAL BALA, TEHSIL AND DISTRICT JAMMU;
  - 2) CHAMAN LAL S/O -----DO-----;
  - 3) SHAMBOO NATH S/O -----DO-----;
- (PETITIONERS)**

**VERSUS**

- 1) ARUN GUPTA S/O VIJAY KUMAR GUPTA R/O NARWAL BALA, TEHSIL AND DISTRICT JAMMU;
  - 2) TEHSILDAR, JAMMU;
  - 3) NAIB TEHSILDAR, BAHU, JAMMU.
- (RESPONDENTS)**

In the matter of:

**Review petition against the order dated 23.12.2014  
passed by this court, with the prayer to recall the  
same.**

For Petitioners                    --- Advocate Ajay Gupta  
For Respondent No. 1        --- Advocate N. A. Choudhary

**ORDER**

- 1) This is to dispose of the review petition filed by the petitioners against the order dated 23.12.2014 passed by this court. This court has

Carefully gone through the case file and observes that the petitioners have not been able to point out any error or mistake in either fact or law which may be considered to re-examine the judgement under challenge. The petitioners have simply spelt out same grounds while challenging the order in review which have already been addressed by this court. These obviously can't be treated as errors. An error must be of such a magnitude that one has not to travel beyond the record to see if the judgement is correct or not. **Secondly**, the petitioners have not been able to introduce any new and important matter or evidence in the case. The basic rule underlying review is that the new evidence must be relevant and of such a character that had it been given earlier, it might possibly have altered the judgement. This court does not find any such evidence or matter in the review petition which may meet the criteria.

- 2) Lastly, a hypothetical question to be considered is that can some technical infirmities, which in any case have NOT been proved, overcome the fundamental merits of any case when the subject matter is a public path way/common land?. The subject matter of the dispute is undeniably a common property of the public and allowing encroachment on such land, shall be against public policy, regardless of the consequences for the encroacher.
- 3) Moreover, the Hon'ble Supreme court of India in case titled, "**Jagpal Singh & others Vs. State of Punjab**" has expressed great concern over the encroachment of common lands in India. The Apex court after examining the matter from diverse angles observed as to how in large parts of the country, common village lands have been grabbed by unscrupulous persons using muscle power, money power or political clout, and in many States now there is not an inch of such land left for the common use of the people of the village, though these may so

exist on paper. The Hon'ble Apex court had accordingly directed all states to remove all such encroachments.

- 4) In view of what has been observed above, the review petition is dismissed. The order dated 23.12.2014 passed by this court is upheld. 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 **28<sup>th</sup> day  
of May, 2015** under my hand and seal  
of this Court.