

**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>
355/FC-AP	23.01.2014	24.06.2015

A)

1) BHAWA TULSI GIR CHELLA TEHAL GIR R/O KHANPUR, TEHSIL AND DISTRICT JAMMU.

(PETITIONER)

VERSUS

1) BHAWA BHULLA GIR SO CALLED CHELLA PARMANAND BHARTI R/O BHALWAL, TEHSIL AND DISTRICT JAMMU.

(RESPONDENT)

In the matter of:

Reference dated 24.12.2013 made by the court of the Settlement Commissioner, Jammu and Kashmir in revision against the order dated 28.05.1966 passed on mutation No. 1783 of village Bhalwal, Tehsil and District Jammu;

B)

1) BHAWA TULSI GIR CHELLA TEHAL GIR R/O KHANPUR, TEHSIL AND DISTRICT JAMMU.

(PETITIONER)

VERSUS

1) BHAWA BHULLA GIR SO CALLED CHELLA PARMANAND BHARTI R/O BHALWAL, TEHSIL AND DISTRICT JAMMU.

(RESPONDENT)

In the matter of:

Reference dated 24.12.2013 made by the court of the Settlement Commissioner, Jammu and Kashmir in revision against the order dated 27.08.1975 passed on mutation No. 1906 of village Bhalwal, Tehsil and District Jammu;

C)

1) BHAWA TULSI GIR CHELLA TEHAL GIR R/O KHANPUR, TEHSIL AND DISTRICT JAMMU.

(PETITIONER)

VERSUS

1) BHAWA BHULLA GIR SO CALLED CHELLA PARMANAND BHARTI R/O BHALWAL, TEHSIL AND DISTRICT JAMMU;

2) STATE.

(RESPONDENTS)

In the matter of:

Reference dated 24.12.2013 made by the court of the Settlement Commissioner, Jammu and Kashmir in revision against the order dated 14.03.1991 passed on mutation No. 2521 of village Bhalwal, Tehsil and District Jammu;

D)

1) BHAWA TULSI GIR CHELLA TEHAL GIR R/O KHANPUR, TEHSIL AND DISTRICT JAMMU.

(PETITIONER)

VERSUS

1) SUNIT SINGH S/O THAKUR RAM SINGH R/O BHALWAL, TEHSIL AND DISTRICT JAMMU;

2) BHAWA BHULLA GIR SO CALLED CHELLA PARMANAND BHARTI R/O
BHALWAL, TEHSIL AND DISTRICT JAMMU.

(RESPONDENT)

In the matter of:

**Reference dated 24.12.2013 made by the court of the
Settlement Commissioner, Jammu and Kashmir in
revision against the order dated 30.09.1992 passed on
mutation No. 2812 of village Bhalwal, Tehsil and
District Jammu;**

For Petitioner --- **Advocate K. C. Gupta**
For Respondents --- **Nemo**

J U D G E M E N T

- 1) The present dispute concerns land measuring 18 Kanals and 18 Marlas falling under Khasra No. 3069, 4069, 4051 and 4052 in village Bhalwal, Tehsil and District Jammu. This land was first granted as a "Muafi" in favour of Samadhi of 'Anar Gir' vide order dated **16 Poh 1983** passed by the Revenue Minister, J&K Government with the stipulation that the same shall be held by it till its existence. Sometimes thereafter, the name of Thakur Dwara temple also appears against this property. The present cause of action arose when on 28.06.1966 mutation No. 1783 by virtue of which the inheritance of one Atmanand with regard to occupancy tenancy rights was devolved upon Gian Gir as an occupancy tenant. Similarly, mutation No. 1906 dated 27.08.1975 was attested and the inheritance of Gian Gir was devolved upon Parmanand Bharti and mutation No. 2521 dated 14.03.1991 was attested whereby Bhulla Gir succeeded Parmanand Bharti. Later, Bawa Bulla Gir leased out land measuring 02 Kanals falling under Khasra No. 4106 in favour of respondent No. 1 at "D". Consequently, this lease deed was incorporated in the revenue records vide mutation No. 2812 dated 30.09.1992.

- 2) Aggrieved, the petitioner herein filed four separate revisions before the court of the Settlement Commissioner, Jammu and Kashmir challenging all these mutations. The court below after a threadbare analysis of the matter observed that the land is State land and admittedly all the "Girs" all along have held the land not in their personal capacities but on behalf of the institutions represented by them. In the background note dated **16 Poh, 1983**, the grant is "Muafi" which is heritable by the institution and not the persons representing such institutions whose role is limited to the extent of managerial responsibilities on behalf of the institution represented by them and such persons have to merely act as mohatmims as appointed by competent authority. Undoubtedly, "Maufi" was in favour of Samadhi Anra Gir till its existence and Atmanand was only a manager. Further, it was expressed by the court below that there is a need for protecting the property and disposal of the case one way or the other should not result in misappropriation of assets. Viewed thus, the orders passed on the mutations impugned in these revisions can't stand scrutiny of the Standing Order 23-A.
- 3) Concluding, the court below has held that all the mutations should be set aside with the direction to the Tehsildar concerned for conducting a fresh enquiry on spot keeping in view the rituals and conventions associated with the succession of a Gir, identification of successors/kins of Anar Gir and appointment of Managers by the competent authority (Deputy Commissioner) from time to time. In fact nothing further is required to be delved into except appointment of managers in view of the grant of "Muafi" for smadhi and Atmanand as a manager only who shall be followed by managers as duly appointed by the Deputy Commissioner, subject to the views of the devotees of Samadhi. However, till such time the Tehsildar completes the enquiry and returns findings by passing appropriate orders, there shall be a blanket embargo on alienation/transfer of the land covered in the impugned orders which is deemed proper in view of the possibility of misuse of the fluid situation by unscrupulous elements. The court below has accordingly submitted the case to this court under Sec. 15 (3) of the Land Revenue Act, 1996 (Smtv) with the recommendation to set aside all the impugned mutations.
- 4) This court has carefully gone through the case file and observes that the court below has rightly addressed the controversy. The views expressed by it are quite logical and rational. This court, therefore, sees no reason to disagree with the opinion made by the court below except that the land under consideration is

shamilat land and not state. But “Muafi” was granted in favour of a Samadhi which clearly shows that that the land belongs to the temple. No one is authorised to transfer this land as has been done under mutation No. 2812.

- 5) Heading a step forward, in order to make the process totally transparent, this court is of the considered opinion that a five member committee of public spirited and religious citizens should be appointed by DC Jammu in due course to assist the Tehsildar/Naib Tehsildar Bhalwal, Jammu in managing the affairs of the temple and its land. There should be a proper bank account in the name of the temple. CCTVs, if possible, should be installed in the temple premises more particularly where the donation boxes are kept and where the cash etc. are counted. For free technical help in this regard, DC Jammu is advised to contact the CEO, SMVDSB or CEO, SASB.
- 6) Having considered the facts and circumstances of the case and upon careful reflection, this court accepts the reference made by the court of the Settlement Commissioner, Jammu and Kashmir. The Tehsildar should move immediately in the matter as directed. All four impugned mutations are quashed as recommended. The Deputy Commissioner, Jammu is directed to actively supervise the management of the temple and its land till the aforesaid committee is formed. He shall sort out the modalities in this behalf so that the committee can be made functional within a period of 06 Months hereof. However, there shall be no bar to the appointment of the petitioner herein as pujari/mohatmim of the said temple if it is found that his character and antecedents are good. 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.