

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

FILE NO.  
**62/FC-AP**

DATE OF INSTITUTION  
**22.12.2010**

DATE OF DECISION  
**24.06.2015**

1) CUSTODIAN EVACUEE PROPERTY, JAMMU.

**(PETITIONER)**

**VERSUS**

- 1) MASAIB ALI S/O DEEDAR BAKH R/O LOHAR KOT, DISTRICT RAJOURI;  
2) NIZAM DIN S/O -----DO-----;  
3) TEHSILDAR, RAJOURI.

**(RESPONDENTS)**

In the matter of:

**Reference dated 15.12.2010 made by the court of the Joint Settlement Commissioner, Jammu in revision petition against the order dated 09.01.1987 passed on mutation No. 108 by the Naib-Tehsildar concerned by virtue of which the occupancy tenancy rights with regard to land measuring 42 Kanals and 17 Marlas falling under Khasra No. 27 and 31, respectively, in village Narian, Tehsil Nowshera have been transferred to the private respondents.**

For Petitioners        ---    Advocate Sheikh Abdul Gani  
For Respondents       ---    Nemo

**J U D G E M E N T**

- 1) The present dispute pertains to landed property measuring 42 Kanals and 17 Marlas alleged to be an evacuee property falling under Khasra No. 27 and 31, respectively, in village Narian, Tehsil Nowshera, District Rajouri. The present controversy took place on 09.01.1987 when the Naib-Tehsildar concerned attested the impugned mutation No. 108 by virtue of which the occupancy tenancy rights over the said land were transferred to the respondents.
- 2) Aggrieved, the petitioner herein filed a revision petition challenging the impugned mutation before the Divisional Commissioner, Jammu who vide order dated 12.11.1999 transferred the same to the Joint Settlement Commissioner, Jammu for disposal under law. The court below in an *ex parte* disposal of the case observed that the class of impugned mutation has been mentioned as "**Sokhta Record**" (Burnt record). Technically, this category of mutation does not find a place in the classes of mutation defined under Para 19 of the Standing Order 23-A. Moreover, the impugned mutation confers occupancy tenancy rights to the respondents allegedly on the basis of a sale deed but there is nothing to prove as to whether there was any such agreement between the parties or not. There was no registered document which could justify the action of the attesting officer. In this background, the court below has submitted the case to this court under Sec. 15 (3) of the Land Revenue Act, 1996 (Smvt.) with the recommendation to set aside the impugned mutation.
- 3) This court has gone through the case file as well as the connected record and observes that the court below has rightly settled the issues in the matter. The order passed by the court below is well reasoned and quite rational. The impugned mutation speaks of some sale of occupancy tenancy rights in the year 1947 and destruction of records afterwards but doesn't attach proof of any such sale. This is a glaring illegality which needs to be immediately corrected. Thus, this court

does not find any reason to disagree with the observations made by the court below in this regard.

- 4) Analysing the facts and circumstances of the case and for the reasons aforesaid, the reference made by the court below is accepted. The order dated 09.01.1987 passed by the Naib-Tehsildar concerned on mutation No. 108 is set aside. The case is remanded to the Tehsildar concerned for a *de novo* enquiry into the matter in presence of all the concerned including the Custodian department and for taking further appropriate necessary action. 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 **24<sup>th</sup> day  
of June, 2015** under my hand and Seal  
of this Court.