

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

FILE NO
222/FC-AP

DATE OF INSTITUTION
25.07.2012

DATE OF DECISION
06.01.2015

1) MANI RAM S/O LATE WAZEERU GADDI R/O VILLAGE SARNASU
BIBROTA, TEHSIL AND DISTRICT DODA.

(PETITIONER)

VERSUS

1) TEHSILDAR TERRITORIAL, DODA;
2) COMMISSIONER/SECRETARY TO GOVERNMENT OF J&K, POWER
DEVELOPEMENT DEPARTMENT, CIVIL SECRETARIAT, SRINAGAR.

(RESPONDENTS)

In the matter of:

**Revision petition against the order No. 510/TD/WP
dated 15.10.2004 and order dated 14.10.2004 on
mutation No. 872 both passed by the respondent
No. 1 with regard to the land measuring 15 Kanals
and 06 Marlas falling under Khasra No. 748/372 in
village Sarnaso Bibrota, Tehsil and District Doda
related to the conferment of ownership rights
under Govt. Order No. LB-6/C of 1958 and S-432 of
1966.**

For Appellants --- Advocate O.P.Thakur
For Respondents --- Revenue Attorney

JUDGEMENT

1) In brief, the controversy involved is with regard to the conferment of rights of **Tenant-at-Will** under Govt. Order No. LB-6/C of 1958 and subsequent ownership rights under Govt. Order No. S-432 of 1966 in respect of the above stated land. The petitioner herein had filed a writ

petition before the Hon'ble High Court of J&K which was disposed of with the direction to the Revenue Department, Govt. of J&K to consider his claims in terms of "the averments made in the writ petition provided the case is covered under the Govt. Order No. LB-6/C of 1958, other policy decisions, Govt. orders and instructions issued from time to time". The Hon'ble High court had further directed the Tehsildar Doda to take a decision in this behalf within a period of 02 months.

- 2) Complying with the directions of the Hon'ble High Court, the Tehsildar Doda conducted an enquiry into the matter, went on the spot and rejected the claim of the petitioner for the conferment of any rights under the above mentioned Govt. Orders. The officer while rejecting the claim put reliance on the provisions of the **Govt. Order No. 158 of 1989 dated 22.06.1989** which lays down that no mutation under Govt. Order No. LB-6/C of 1958 and Govt. Order No. S-432 of 1966 in respect of lands to which these were applicable shall be attested hence forth.
- 3) Aggrieved, the petitioner herein challenged the action of the Tehsildar Doda in revision before this court on various grounds. This court has diligently gone through the case file as well as other connected record and observes that the Tehsildar Doda was nowhere wrong in rejecting the claim of the petitioner. His findings were legal and cogent because vide **Order No. 158 of 1989 dated 22.06.1989**, the Govt. had indeed banned conferment of any rights under these orders.
- 4) However, subsequently vide **Govt. Order No. Rev. (LB) 201 of 2007 dated 12.06.2007**, the above stated order imposing ban has now been rescinded. It lays down that "all pending work of attesting mutations under Govt. Order No. LB-6/C and S-432 shall be completed forthwith strictly in accordance with the terms and conditions laid down therein. Further, where any terms and conditions laid down under these Govt. Orders are violated after attestation of the mutations, these mutations shall be void *ab initio* and such lands shall be dealt with under the J&K State Lands (Vesting of ownership to the occupants) Act, 2001 for vesting of ownership to the occupants under the category of unauthorised occupants".
- 5) Furthermore, while filing objections on behalf of the State, the Revenue Attorney makes a mention that land measuring 10 Kanals and 12 Marlas

out of the 15 Kanals and 06 Marlas has been transferred to the **Power Development Corporation** in Rabi, 2002 through a mutation but no revenue record in this behalf has been supplied. This aspect is required to be enquired into at the lower level.

- 6) Having considered the facts and circumstances and after a careful reflection, the revision petition is allowed. Accordingly, the orders impugned are set aside. The case is remanded to the Tehsildar concerned for a *de novo* enquiry into the matter and for taking further appropriate necessary action with special reference to the directions passed by the Hon'ble High Court of J&K. 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 **06th day of January, 2014** under my hand and seal of this Court