

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

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

DATE OF INSTITUTION  
**17.01.2012**

DATE OF DECISION  
**16.12.2014**

1) LEGAL HEIRS OF MUNI RAJ, **ADOPTED** S/O CHUNI LAL R/O VILLAGE DONGROO, TEHSIL AND DISTRICT DODA.

**(PETITIONER)**

**VERSUS**

1) DHARAM CHAND S/O TILAK RAM R/O VILLAGE DONGROO, TEHSIL AND DISTRICT DODA;

2) VIDYA RAM S/O -----DO-----

**(RESPONDENT)**

In the matter of:

**Reference dated 14.11.2011 made by the court of the Additional Commissioner (with powers of Divisional Commissioner) Jammu in revision against the order dated 29.04.2000 passed by the Assistant Commissioner (Revenue), Doda dismissing the appeal and upholding the order dated 23.07.1998 passed on mutation No. 331 by the Tehsildar (AR) Doda.**

For Petitioner (Legal Heirs) --- Advocate Swami Raj Sharma

For Respondents --- Advocate J.M.Razdan  
--- Advocate A.G.Sheikh

## J U D G E M E N T

- 1) The present controversy pertains to the succession of one **Chuni Lal S/O Ram Lal R/O village Dongroo, Tehsil and District Doda** who is said to have adopted one Muni Raj, petitioner herein. It is alleged that the said Chuni Lal, during his life time, had executed a **“Will Deed”** with regard to his property in favour of his adopted son. When he died, the Tehsildar, Doda attested mutation No. 331 **(Impugned)** on the basis of the said **“Will Deed”** devolving his inheritance on Muni Raj.
- 2) Afterwards, a dispute arose regarding the inheritance of the deceased. From then on, the matter is sailing from one revenue court to another. Many a time, the matter was remanded to the Tehsildar concerned for *de novo* enquiry and passing of fresh orders. However, the controversy has still not ended.
- 3) Finally, the matter has reached this court as a reference from the court of the Additional Commissioner (with powers of the Divisional Commissioner) Jammu wherein the court below has recommended to uphold the orders dated 03.08.1989 and 31.11.1994 passed on mutation No. 331 by the Tehsildar Doda. It has further recommended to set aside the order dated 06.10.1994 passed by the Deputy Commissioner, Doda, order dated 23.04.1996 passed by the ADC, Doda, order dated 29.04.2000 passed by the ACR, Doda and the order dated 23.07.1998 passed by the Tehsildar Doda.
- 4) The court below after having examined the matter threadbare had observed that the deceased Chuni Lal had executed a **“Tanbiyat Nama” (“Will Deed”)** bequeathing all his property to his nephew, the petitioner **(Muni Raj)**. The respondents (who too are nephews) have nowhere challenged the genuineness of the same. Factually also, the said Muni Raj had been living in the house of the deceased Chuni Lal as his parents had died way back before 1955. This fact is further substantiated by the copies of the Ration Card and the Electoral Roll. Last rites of the deceased were also performed by him. Even, possession of land was delivered to him peacefully.
- 5) Moreover, while examining the order dated 06.10.1994 passed by the Deputy Commissioner, Doda, it is observed that the said court has not appreciated the legal aspect of the case and has gone on to interpret the provisions of the Hindu Adoption and Maintenance Act, 1960. Declaring an **“Adoption Deed”** legal or illegal was certainly not the jurisdiction of the said court. However, it still entered

the domain of a Civil Court and exceeded its jurisdiction by declaring the said deed as null and void. Thus, taking this into consideration, the court below has held the order dated 06.10.1994 passed by the Deputy Commissioner Doda as without jurisdiction and legally not maintainable.

- 6) This court has gone through the case file and the related record. Obviously, the court below is right in holding that the court of the Deputy Commissioner, Doda stepped into the domain of a Civil Court to challenge the legality or illegality of the **“Adoption Deed”**. Indeed, deciding the genuineness of such deeds is always the jurisdiction of Civil Courts.
- 7) Having considered the present facts and circumstances, the reference as well as the impugned mutation No. 331 is upheld. All orders as mentioned in the reference, quashing this mutation are set aside. The parties are advised to approach a Civil Court to settle the validity or otherwise of the impugned Tanbiat Nama before they approach any revenue court again. 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 **16<sup>th</sup> day of December, 2014** under my hand and Seal of this Court.