

**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>
381-382/FC-ARC/AP	27.08.2012	23.12.2014

1) MUNOO JI DHAR ADOPTED S/O LATE BALJI DHAR R/O VILLAGE HARMAN, TEHSIL AND DISTRICT SHOPIAN A/P H.NO. 110, LANE NO. 4, ANAND NAGAR, BOHRI JAMMU.

(APPELLANT)

VERSUS

- 1) DISTRICT MAGISTRATE, SHOPIAN;
- 2) TEHSILDAR SHOPIAN;
- 3) GHULAM MOHI-UD-DIN WANI S/O SHABAN WANI R/O VILLAGE HARMAN, TEHSIL AND DISTRICT SHOPIAN.

In the matter of:

A) Appeal against the order dated 25.09.1990 passed on mutation No. 950/1 attested under Sec. 4 of the Agrarian Reforms Act, 1976 with regard to land measuring 01 Kanal falling under Khasra No. 918 in village Harman, Tehsil and District Shopian by virtue of which respondent No. 3 has been declared as Prospective Owner;

B) Appeal against the order dated 15.05.2001 passed on mutation No. 1022 attested under Sec. 8 of the Agrarian Reforms Act, 1976 whereby ownership rights over land measuring 6 ½ Marlas out of the

above stated land have been conferred on the respondent No. 3.

For Appellant --- Advocate K.L.Pandita

For Respondent No. 3 --- Advocate Gh. Hassan Dar

ORDER

- 1) The summarised facts of the case are that the appellant herein along with one Madri Wd/O Balji was the owner of above stated 01 Kanal of land which was in their personal cultivation. It is alleged that the Tehsildar concerned attested a mutation **No. 950/1** by virtue of which the rights of the owners over the said land were extinguished and the land was vested in the state declaring the respondent No. 3 as Prospective Owner. Later, vide mutation No. 1022 dated 15.05.2001, the said Prospective Owner was made owner of land measuring 6 ½ Marlas out of 01 Kanal under Sec. 8 of the Agrarian Reforms Act, 1976.
- 2) Aggrieved, the appellant has filed the present appeals challenging the impugned mutations on various grounds which have been countered by the respondents while filing their objections. This court has gone through the case file and other connected record as well as the written submissions filed by the parties. Column No. 1 of the mutation under Sec. 4 of the Agrarian Reforms Act indicates that it has been allocated a divisible (bata) serial number, viz., 950/1. **Rule 9 of the Standing Order 23-A** dealing with the subject of attestation of mutations lays down that the serial number of mutation cases for each village should be continuous for the whole term of the settlement and each case should be given a separate serial number. No instance has been provided in the said standing order or any other law for the time being in force where a mutation can be assigned a divisible number.
- 3) Therefore, had the respondent No. 3 been cultivating the land under consideration as tiller on the determinant date and met all the requirements to

become a prospective owner, a mutation under Sec. 4 of the Agrarian Reforms Act, 1976 could have been attested in that behalf by allotting it a serial number next to the latest Entered/Attested mutation concerning that village. Moreover, mutation No. 1022 has been attested under Sec. 8 of the said Act on the basis of mutation No. 950/1 by virtue of which ownership rights have been conferred on the respondent No. 3. This means that the record has been manipulated and the impugned mutations have been attested just to give benefit to the respondent No. 3 herein, taking advantage of the appellants⁵ migration to Jammu.

- 4) Additionally, this court notes with concern that in the impugned mutation No. 950/1, the kind of land has not been described. This is the primary requirement which the Patwari has to comply with while making the enteries in the mutations as per the guidelines contained in the said Standing Order. This aspect also needs to be verified.
- 5) Having considered the facts and circumstances of the case, the appeal is allowed and the mutation No. 950/1 dated 25.09.1990 is set aside. In addition, the order passed on the second mutation No. 1022 dated 15.05.2001 is also quashed. The matter is remanded to the District Magistrate, Anantnag for a **de novo** enquiry under the **Jammu and Kashmir Migrants immovable property (Preservation, Protection and Restraint on distress sales) Act, 1997** in the matter and further appropriate necessary action under law including the payment of compensation to the appellant as prescribed under the Act for this unauthorised occupation. A cost of Rs, 10,000/- (Rupees Ten Thousands only) is imposed further on the Resp. No. 3, that shall be paid to the appellant, for this undue harassment and unnecessary litigation. 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 **23rd day of December, 2014** under my hand and Seal of this Court.