

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

FILE NO
131/FC-AP

DATE OF INSTITUTION
10.10.2010

DATE OF DECISION
06.01.2015

- 1) PARSHOTTAM LAL S/O OM PARKASH R/O VILLAGE CHAK JAGAR, TEHSIL AND DISTRICT JAMMU;
 - 2) PAWAN KUMAR S/O ----- DO-----;
 - 3) SUNIL KUMAR S/O ----- DO-----;
 - 4) RAHUL KUMAR S/O ----- DO-----;
 - 5) ARVIND KUMAR S/O ----- DO-----;
 - 6) MST. SHANTI DEVI WD/O ----- DO-----.
- (PETITIONERS)**

VERSUS

- 1) VIJAY GORKHA S/O THORU RAM;
 - 2) SUNIL GORKHA S/O ----- DO-----;
 - 3) SATISH KUMAR S/O JANAK RAJ ----- DO-----;
 - 4) RAKESH KUMAR S/O ----- DO-----;
 - 5) CHIMAN LAL S/O KIRPA R/O ----- DO-----;
 - 6) GIRDHARI LAL S/O LAJU RAM R/O ----- DO-----;
 - 7) DALIP S/O KAKKA RAM R/O ----- DO-----;
 - 8) MANI RAM S/O DHARMU R/O ----- DO-----;
- (RESPONDENTS)**

In the matter of:

**Revision against the order dated 17.02.2010 passed by
the Joint Settlement Commissioner, Jammu and
Kashmir with regard to the land measuring 01 Kanal**

**and 07 Marlas falling under Khasra No. 52 (177 Old) in
village Chak Jagar, Jammu.**

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| For Petitioners | --- | Advocate Vikrant Sharma |
| For Respondent No. 4 to 6 | --- | Advocate M.L.Bhat |
| For Respondent No. 1 to 3, 7 & 8 | --- | Nemo |

ORDER

- 1) This court has gone through the case file and observes with regrets that the petitioners have not been able to put forth the factual matrix of the case. Amongst the documents which were relevant to decide the matter, the petitioners have only provided the order passed by the Joint Settlement Commissioner and some extracts of ***Khasra Girdawari***. However, an examination of the order passed by the court below indicates that the Tehsildar AR, Jammu had passed an order dated 15.07.2002 observing the land under contemplation a pathway, ***"Gair Mumkin Raasta"*** which was encroached. The Tehsildar concerned, after visiting the spot, was of the view that the provisions of Sec. 3 & 4 of the J&K Common Lands (Regulation) Act, 1956 cover the matter and therefore, ordered for the removal of encroachment from the said land. Further, it appears that the order passed by the Tehsildar AR, Jammu was challenged in appeal before the Deputy Commissioner (Collector) Jammu who upheld the same.
- 2) Aggrieved, one Jagan Nath S/O Fateh Chand along with father of petitioner No. 1 to 5 filed a revision petition before the court of the Joint Settlement Commissioner, J&K challenging the order passed by the Deputy Commissioner (Collector) Jammu. The court below after examining the relevant revenue record, **viz.**, extract of ***Khasra Girdawari*** for Kharif, 2002, ***Masavi*** of 1979-80 (Bk.) ***Misal Haqiyat*** for

1996-97, observed that the land in question is "**Gair Mumkin Raasta**" (**Mufid-e-aam**) and accordingly, upheld the order passed by the Deputy Commissioner (Collector) Jammu. It directed the Tehsildar, AR Jammu to open the pathway after proper demarcation in presence of the villagers and as per the position available in the record.

- 3) Still unsatisfied, the petitioners herein have filed the present revision petition challenging the order passed by the court below on various grounds. This court has gone through the case file and observes that the materials placed on the record file are not appropriate to establish full facts of the case. Interestingly, the petitioners have not even rebutted the observations made by the court below on the basis of relevant revenue record. Technically, one who asserts a claim has the obligation to provide sufficient facts and proof in support of his contentions. However, the petitioners have failed to do so. With the available information, it is not possible to reach at a just conclusion in the matter.
- 4) In view of what has been observed above, the revision petition fails and accordingly, the order impugned is upheld. The matter is remanded to the Tehsildar concerned for appropriate further necessary action in the matter. 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, 2015** under my hand and seal of this Court.