

**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>
412/FC-ARC/AP	25.04.2013	16.12.2014
413/FC-ARC/AP	-----DO-----	16.12.2014

- 1) RAJINDER PAL SINGH S/O HARBANS SINGH R/O DASHMESH NAGAR, DIGIANA, JAMMU;
 - 2) DARBARA SINGH S/O -----DO-----.
- (APPELLANTS)**

VERSUS

- 1) HARBANS SINGH S/O IQBAL SINGH R/O DASHMESH NAGAR, DIGIANA, JAMMU;
 - 2) TEHSILDAR AGRARIAN REFORMS, JAMMU;
 - 3) TEHSILDAR (S) JAMMU;
 - 4) NAIB TEHSILDAR (S) DIGIANA JAMMU.
- (RESPONDENTS)**

In the matter of:

- 1) **Appeal against the order dated 28.09.1985 passed on mutation No. 790 by the Tehsildar Agrarian Reforms, Jammu under Sec. 4 of the Agrarian Reforms Act, 1976 with regard to the land measuring 08 Kanals and 09 Marlas falling under Khasra No. 14 (311 Min. old) and 06 Kanals and 11 Marlas under Khasra No. 31 (309 old) both in village Gangyal, Tehsil and District Jammu;**
- 2) **Appeal against the order dated 02.10.1985 passed on mutation No. 791 by the Tehsildar Agrarian Reforms,**

**Jammu under Sec. 12 of the Agrarian Reforms Act,
1976 with regard to the aforesaid land.**

For Appellants --- Advocate C.M.Gupta

For Respondent No. 1 --- Advocate G.C.Sharma

J U D G E M E N T

- 1) The present controversy concerns land measuring 15 Kanals falling at the above noted location which has come under the purview of the Agrarian Reforms Act, 1976. Consequently, the Tehsildar (AR), Jammu attested the impugned mutation No. 790 by virtue of which the ownership rights of the ex owners were extinguished and the land was vested in the State and Harbans Singh, respondent No. 1 herein was declared as the Prospective Owner. Later, mutation No. 791 was attested under Sec. 12 of the said Act whereby the said Prospective Owner was conferred with the ownership rights over the said land.
- 2) Aggrieved, the appellants, who are the sons of respondent No. 1 from his first wife, have filed two interconnected appeals before the court of the Joint Commissioner Agrarian Reforms, Jammu challenging therein both the aforesaid mutations. During the pendency of the matter before the court below, the appellants filed two simultaneous petitions seeking transfer of both the appeals to this court. Meanwhile, the Government of Jammu and Kashmir abolished the Office of the Joint Commissioner Agrarian Reforms. Therefore, on 13.11.2014, this court felt it just and proper to transfer both the appeals before it for disposal.
- 3) This court has gone through the case file, other connected record and the written submissions filed by the parties. It has been observed that respondent No. 1 herein was cultivating the land under deliberation in the year 1971 and was accordingly, declared as Prospective owner under Sec. 4 of the Agrarian Reforms Act, 1976. Later, the ownership rights were conferred on him under Sec. 12 of the said Act. Thus, the Tehsildar (AR),

Jammu was NOT wrong in attesting the impugned mutation No. 790 under Sec. 4 and the other impugned mutation No. 791.

- 4) Apparently, the appellants being sons of Resp. No. 1 from his first wife, were part of the family of the respondent No. 1 in Kharif, 1971 and they did not constitute any separate family unit on the determinant date. Further as Ld. Counsel for Resp. No. 1 submits, the appellants were neither owners, nor tenants, nor lessees nor having the possession over the land. The impugned mutation attested under Sec. 4 could, therefore, in no case be attested in their favour. Had the appellants constituted a separate family unit and were personally cultivating the land under deliberation, then only, they could be considered to be declared as Prospective owners under rules. It is noted, however, that one of the appellants was not even born on the said date and the other was aged just over 2.
- 5) Having considered the facts and circumstances of the case and for the reasons discussed above, this court holds that both the appeals are misconceived and totally devoid of merits and are, therefore, dismissed. The impugned mutations are upheld. This court notes with concern the dilatory tactics adopted by the appellants in filing this case before many other courts below and withdrawing. A cost of Rs. 10,000 (Rupees Ten Thousand only) is, therefore, imposed on them to be paid to the resp. No. 1 for this uncalled for behaviour. 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 **16th day of
December, 2014** under my hand and Seal
of this Court.