

**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>
459/FC/ARC/APPL	26.07.2005	22.10.2014

- 1) RAKESH TICKOO S/O RADHA KRISHAN R/O BIJBEHARA DISTRICT ANANTNAG;
- 2) ARUN TICKOO S/O -----DO-----;
- 3) VIJAY D/O SHAM LAL TICKOO R/O -----DO-----;
- 4) REETA -----DO-----;
- 5) SUNITA -----DO-----;
- 6) SHASHI -----DO-----.

THROUGH ATTORNEY HOLDER KASHI NATH TICKOO S/O SHIV JI TICKOO R/O BIJBEHARA DISTRICT ANANTNAG (AFTER HIS DEMISE SUSHIL TICKOO).

(PETITIONERS)

VERSUS

- 1) NISSAR AHMED S/O RAMZAN R/O BIJBEHARA DISTRICT ANANTNAG;
- 2) SAJJAD S/O RASOOL R/O -----DO-----;
- 3) HUSSAIN S/O -----DO-----;
- 4) MANZOOR S/O -----DO-----;
- 5) SHAMIMA D/O -----DO-----;
- 6) JALLA WD/O -----DO-----;
- 7) RAFEEQA D/O ALI HAJAM R/O -----DO-----;
- 8) GHULAM HASSAN S/O ABDIKHALA R/O -----DO-----.

(RESPONDENTS)

In the matter of:

- A) Appeal against the order dated 28.10.2003 passed on mutation No. 1556 under Sec. 8 of the Agrarian Reforms Act, 1976 with regard to land measuring 12 Marlas falling under Khasra No. 628 in village and Tehsil Bijbehara, Anantnag;
- B) Appeal against the order dated 18.03.1999 passed on mutation No. 1438 under Sec. 8 of the Agrarian Reforms Act,

**1976 with regard to land measuring 04 Kanals falling under
Khasra No. 628 in village and Tehsil Bijbehara, Anantnag.**

For Appellants --- Adv. D.N.Trisal and Adv. M.L.Bhat

For Respondents --- Adv. Ajay Gupta
(No. 1,2,4 & 7)

J U D G E M E N T

- 1) The relevant facts of the case are that Radhakrishan and Sham Lal were the owners of the land measuring 04 Kanals and 12 Marlas falling under Khasra No. 628 in village and Tehsil Bijbehara, Anantnag. This land came under the purview of the Agrarian Reforms Act, 1976 and was ordered to be vested in the State under Sec. 4 of the said statute. One Abud S/O Ambir Khala was declared as Prospective Owner over 12 Marlas of land and subsequently, the impugned mutation No. 1556 was attested under Sec. 8 of the said Act conferring on him with the ownership rights thereof. Similarly, Ramzan, Ali and Rasool sons of Mohd. Hajam were declared as Prospective owners over the remaining 04 Kanals of land and were also affirmed as owners by virtue of the attestation of impugned mutation No. 1438.
- 2) Aggrieved, the appellants filed two interconnected appeals before this court challenging both the impugned mutations on various grounds. Since, the facts and cause of action in both the cases have been the same, this court felt it just and proper to club and decide both cases together.
- 3) Consequently, this court has gone through the case file and the other connected record and without going into any other aspect, observes that the only fundamental question involved in the case is as to whether the appellants or their ascendants had validly applied for the resumption of the disputed land under Sec. 7 of the Agrarian Reforms Act, 1976 or not?. The appellants have supplied the xerox copies of the resumption forms but the same bear no initials of any Government functionary and are also without any date. In addition, another xerox copy of an application has been provided in which some Tehsildar Kulgam has

endorsed with his counter signatures that the resumption forms of Smt. Sham Raina Wd/O Sham Lal, Radha Krishan, Shiv Ji and Janki Nath sons of Mohinder and Srikanth S/o Amarch are under process in this Tehsil. These two documents do not suffice to conclude the matter before this court.

- 4) Controverting the claims of the appellants, the respondents too have stressed upon the aforesaid issue. They have also asked the appellants to prove their migrant status and their intention to resume land for bonafide personal cultivation when they are approaching this court through an attorney holder. This court is surprised to see that the appellants while rebutting the written arguments of the respondents have not even touched this specific fact of date/initials/intention on the resumption forms to resume land for personal cultivation. In principal, one who asserts a claim has the onus to prove the same with sufficient and constructive facts along with evidences. Here the petitioners have failed to provide any such material essential to reach a just conclusion. Therefore, this court is of the opinion that both the appeals are liable to be set aside.
- 5) Having heard the counsels for both the parties at length, having gone through the connected record and after a careful reflection over the entire matter, both the appeals are hereby dismissed. However, the appellants shall be at liberty to file a subsequent review petition with the certified copies of the documents deliberated upon above and any other additional material in this regard. 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**

Announced today on this the 22nd day of
October, 2014 under my hand and seal of
this Court.