

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

FILE NO.
660/FC-AP

DATE OF INSTITUTION
26.02.2010

DATE OF DECISION
24.06.2015

1) STATE OF JAMMU AND KASHMIR.

(PETITIONER)

VERSUS

1) BABU RAM S/O KHAYALI RAM R/O GADI GARH, TEHSIL AND DISTRICT
JAMMU.

(RESPONDENT)

In the matter of:

**Reference dated 04.02.2010 made by the court of the
Joint Settlement Commissioner, Jammu in revision
petition against the fake and fabricated entry
recorded on parat patwar of mutation No. 1472 of
village Deeli, Tehsil and District Jammu in respect of
Khasra No. 1088/4 (08K-15M) and 781 min. (13K).**

For Petitioner --- Revenue Attorney

For Respondent --- Nemo

J U D G E M E N T

1) The present case pertains to land measuring 21 Kanals and 15 Marlas falling under Khasra No. 1088/4 and 781 min. in village Deeli, Tehsil and District Jammu. It is alleged that mutation No. 1472 was attested on 30.06.1989 by virtue of which the ownership rights of this land were conferred upon a displaced person of 1947, Khayali Ram S/O Keeru Ram R/O Gadi Garh, Jammu under Govt. order No. 254/C of 1965. But, another mutation of the

same number 1472 dated 16.11.1985 already stood attested in favour of Kuldeep Singh S/O Arjan Singh R/O Kanji House, Jammu on the basis of a sale deed of 01 Kanal falling under Khasra No. 395 min in the same village.

- 2) When the issue of this fake mutation was highlighted, the then Deputy Commissioner, Jammu himself conducted an enquiry into the matter. It was observed by him that there are two mutations of the same number i.e., 1472 attested on two different dates but there was no relation between the both. It was established through the enquiry that mutation No. 1472 dated 30.06.1989 is fake and was fraudulently fabricated by some revenue officials in conspiracy with the private beneficiaries. The matter was also reported to the Govt. which vide Govt. Order No. Rev (S) 85 of 2002 dated 22.04.2002 ordered to suspend the concerned Patwari, asked the IG Crime and Railways to investigate the case and directed the Revenue Attorney to file a revision petition in this regard before the Joint Settlement Commissioner, Jammu.
- 3) The court below while going through the report of the enquiry officer and the relevant records has observed that the impugned mutation has been doctored to give undue benefit to some beneficiaries. The original mutation is numbered as 1472 attested on 16.11.1985 and the one which is under challenge is prima facie manipulated and inserted. Accordingly, it has submitted the case to this court with the recommendation to set aside the mutation No. 1472 dated 30.06.1989 and to treat it as be out of the records. In addition, it is recommended that the entries added in the records in response to the said mutation be also declared as null and void.
- 4) After an in-depth analysis of the records, it is observed that a detailed enquiry has already been conducted by the then Deputy Commissioner, Jammu confirming the brazen manipulation and tampering of the records. The court below also affirms the report of the enquiry officer. This court too is in agreement with the findings drawn at by the court below. The records have been deliberately doctored to benefit certain persons which can't be tolerated.
- 5) In addition, the records indicate that 13 Kanals of land falling under Khasra No. 781 min is admittedly unculturable land. Initially, this land was not

required to be given to anyone in ownership under the said Govt. order as these lands are not meant for agricultural purposes. After all, the basic purpose of allotting lands to displaced persons was to rehabilitate them on farming activities as their main source of livelihood in the previous residence was purely agricultural. Secondly, these lands generally attract the provisions of the Big Landed Estates Abolition Act, 2007 (BK) or the Agrarian Reforms Act, 1976. **Sec. 20-B of the Big Landed Estates Abolition Act, 2007 (Smvt.) expressly prohibits the transfer of such lands or any interest therein** barring even any registration of documents in this behalf. The proviso to Sec. 13 of the Agrarian Reforms Act, 1976 similarly lays down that the **land recorded as Orchard, Arak, Kap, Kah Krisham or of a class notified under clause (f) of Sec. 3 shall not be put to any use other than such Orchard, Arak, Kap, Kah Krisham or for growing fuel and fodder, as the case may be, subject to sub-section (1) of Sec. 15 in the case of an orchard.** It is also required to be seen as to whether the usage of this land is the same or whether it has been put to some other use.

- 6) For the reasons aforesaid and after a careful reflection over the matter, the reference made by the court below is accepted. The impugned mutation No. 1472 dated 30.06.1989 is set aside. Any action done or purported to have been done on the basis of this mutation is also quashed. The case is remanded to the Tehsildar concerned for a de novo enquiry into the matter with reference to Para No. 5 of this order and for taking further appropriate 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 **24th day of June, 2015** under my hand and Seal of this Court.