

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

FILE NO.  
**101/FC-AP**

DATE OF INSTITUTION  
**02.07.2011**

DATE OF DECISION  
**29.07.2015**

1) SUBHASH CHADHA S/O SITA RAM R/O RAJOURI A/P 307-F, NEW PLOTS,  
JAMMU; **(PETITIONER)**

**VERSUS**

1) ADDITIONAL COMMISSIONER (WITH POWERS OF DIVISIONAL  
COMMISSIONER) JAMMU;  
2) DEPUTY COMMISSIONER (COLLECTOR), RAJOURI;  
3) TEHSILDAR THROUGH ASSISTANT REVENUE ATTORNEY, RAJOURI.  
**(RESPONDENTS)**

In the matter of:

**Revision against the order dated 13.04.2011 passed by  
the court of the Additional Commissioner (with  
powers of the Divisional Commissioner), Jammu in File  
No. 1/Appeal wherein the order dated 19.08.2000  
passed by the Deputy Commissioner (Collector),  
Rajouri alongwith the order dated 22.01.1990 passed  
by the Naib Tehsildar on mutation No. 51 has been set  
aside.**

For Petitioner --- **Advocate M. L. Bhat**  
For Respondent --- **ARA**

## J U D G E M E N T

- 1) The present controversy concerns land measuring 10 Kanals falling under Khasra No. 1 in village Sailani, Tehsil and District Rajouri which was allotted to one Sita Ram, father of the petitioner herein under Govt. Order No. 578-C of 1954. Later, the ownership rights over the said land were also conferred upon him under Govt. Order No. 254-C of 1965. Consequently, mutation No. 51 dated 22.01.1990 was attested in this regard by the concerned Naib Tehsildar.
- 2) Taking note of some apparent illegality in this attestation, the Tehsildar Rajouri through Assistant Revenue Attorney challenged the said mutation before the Deputy Commissioner (Collector), Rajouri. After perusing the relevant records, the Collector set aside the impugned mutation to the extent of land measuring 09 Kanals and 16 Marlas. But the ownership rights upto an extent of land measuring 04 Marlas were upheld for residential purposes.
- 3) Aggrieved, the petitioner herein challenged the order passed by the Deputy Commissioner (Collector), Rajouri before the Divisional Commissioner, Jammu who transferred the same to the Additional Commissioner (with powers of the Divisional Commissioner), Jammu. The court below disposed of the case with the observations that there is only a provision for the allotment of agricultural lands to the displaced persons of 1947 or for making up deficiency under Govt. order No. 578-C of 1954 and No. Reh-371/C of 1971 where the main stay of the beneficiaries was agriculture. The petitioner herein has failed to produce his Form-A; rather he has provided a copy of the Financial Assistance Certificate which was given to those DPs who were not entitled for any such allotment. So the observation made by the Collector that the father of the petitioner herein was not entitled for allotment was based on facts. Secondly, the land under consideration is “gair mumkin jar” which ousts the idea of agricultural

occupation of the petitioner. Thus, the court below set aside the order of the Collector regarding 04 Marlas keeping the quashment of the order regarding the land measuring 09 Kanals and 16 Marlas intact.

- 4) Dissatisfied, the petitioner herein challenged the order dated 13.04.2011 passed by the Additional Commissioner (with powers of the Divisional Commissioner), Jammu on many grounds. This court has gone through the case file as well as the written submissions filed by the parties and observes that the court below has disposed of the issues in quite a comprehensive manner. However, the land under consideration is "***Gair Mumkin Rohd***" and not "***Gair Mumkin Jar***" but that too is undoubtedly unculturable. Interestingly, a similar case titled, "Divisional Forest Officer, Rajouri Vs. Subhash Chadha & Anr." was disposed of by this court on 26.05.2015 wherein detailed observations were made regarding the status of unculturable lands in the state and the laws applicable to such lands. The short point is that unculturable lands can't be allotted to displaced persons for agricultural purposes and no technical grounds can negate this simple logic.
- 5) Reproducing the same, **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. Further, the proviso to Sec. 13 of the Agrarian Reforms Act, 1976 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 it has been put to some other use.
- 6) Analysing the entire facts of the case and after a careful reflection over the matter, the order dated 13.04.2011 passed by the court of

the Additional Commissioner (with powers of the Divisional Commissioner), Jammu is upheld. The case 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 **29<sup>th</sup> day  
of July, 2015** under my hand and Seal  
of this Court.