

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

FILE NO
309/FC-AP

DATE OF INSTITUTION
02.09.2013

DATE OF DECISION
10.02.2015

- 1) VIPAN AGGARWAL S/O LATE NAND LAL AGGARWAL R/O H.NO. 13,
MOHALLA PARTAP GARH, JAMMU;
 - 2) MANOJ AGGARWAL S/O-----DO-----;
 - 3) LALIT MOHAN AGGARWAL S/O-----DO-----.
- (THROUGH ATTORNEY HOLDER NARESH KUMAR S/O LATE ROOP
CHAND R/O JINDRAH, TEHSIL AND DISTRICT JAMMU)**

(PETITIONERS)

VERSUS

- 1) KRISHNA BANTI WD/O DEPUTY RAM R/O GANGYAL, TEHSIL AND
DISTRICT JAMMU;
- 2) BANSI LAL S/O JAGAT RAM R/O GANGYAL, TEHSIL AND DISTRICT JAMMU;
- 3) SHIV RAM S/O RASEELA R/O HIRA NAGAR, KATHUA;
- 4) HAFIZA BANO W/O HAKIM MUKHTAR AHMED R/O SALOORA PATTI,
BAMLARA, TEHSIL JANDHAL, DISTRICT SRINAGAR;
- 5) RAMAN GANDOTRA S/O BANSI LAL R/O ANDERI GALI, PANJTIRTHI,
JAMMU A/P 341, SECTOR 5, CHANNI HIMMAT, JAMMU;
- 6) BHUPINDER SINGH S/O AVTAR SINGH R/O H.NO. 20, SECTOR-B, SAINIK
COLONY, JAMMU;
- 7) JAGJIT SINGH S/O AVTAR SINGH R/O H.NO. 1, EXT-D, SAINIK COLONY,
JAMMU;
- 8) TEHSILDAR SETTLEMENT, JAMMU.

(RESPONDENTS)

In the matter of:

Revision petition against the order dated 25.02.1995 passed by the Tehsildar Settlement, Jammu on mutation No. 554 with the further request to correct the revenue record under Sec. 8 of the Land Revenue Act.

For Petitioners --- Advocate Narinder Kumar Attri
For Respondents 6 & 7 --- Advocate Rahul Bharti
For Respondents 1 to 5 --- Ex Parte

J U D G M E N T

- 1) Briefly stated, the controversy is related to the land measuring 02 **Kanals and 19 Marlas falling under khasra No. 694 Min. In village Deeli, Tehsil and District Jammu.** The petitioners herein claim that the said land was allotted to their father on 14.01.1982 and that the same got a mention in the revenue records. However, the Tehsildar Settlement, Jammu while attesting the impugned mutation on **25.02.1995 under Govt. Order No. 254-C of 1965** has conferred the ownership rights on land measuring 33 Kanals and 16 Marlas falling under Khasra No. 781 Min. (06 Kanals-10 Marlas), 816 Min. (06Kanals), 822, 825, 826 and 1010/4 on Krishna Banti, the respondent No. 1 herein, which also covered the land under consideration.
- 2) Aggrieved, the petitioners herein have assailed the impugned mutation on different grounds. Accordingly, the respondents were put to notice, followed by publication in the local daily the **“State Times”** on 26.01.2014. Still when the respondents No. 1 to 5 choose not to appear, they were set ex-parte on 02.04.2014.
- 3) This court has gone through the case file, the materials placed and the written submissions filed by the petitioners as well as respondent No. 6 and 7. **Firstly**, it is observed that the type of land falling under Khasra No. 694 Min., 781 Min. and 816 Min. out of the above stated Khasra numbers has been shown as **“Gair Mumkin Khad” and “Gair Mumkin Road”**. It is well

known that the rights of ownership under Govt. Order No. 254-C of 1965 can only be granted in respect of such state lands which are allotted under Govt. Order No. 578-C of 1954 dated 07.05.1954. Indeed, the main purpose of this Govt. Order was to rehabilitate and allot lands to such Displaced families/persons whose basic source of livelihood was agriculture in their previous place of residence. The lands were to be allotted solely for agricultural purpose which actually means cultivation. A simple interpretation of the said Govt. Order means that the land which is "**Gair Mumkin Khad**" and "**Gair Mumkin Road**" is not available for allotment and if in any case it has been so allotted, that shall require correction.

- 4) **Secondly, Rule 21 of the Standing Order 23-A** lays down that the Field Qanungo should see as to whether the **Surat Sabiq** is correct as per the **Jamabandi**. He must compare and attest by personal examination the papers concerned to ensure that every entry made by the Patwari in the **Parat Patwar** and the **Parat Sarkar** is correct. He must also note briefly in the **Parat Sarkar** that he has done so with date below his report with his signatures on both the parats. But the same has also not been done in the impugned mutation annexed which is only **Parat Patwar**.
- 5) In addition, the Govt. Of Jammu and Kashmir, vide order No. Reh-9GR of 1990 dated 13.03.1990, ordered that no allotment of evacuee/state land shall be made within a radius of 13 KMs from Purani Mandi, Jammu in favour of any person (Local or Refugee) without prior approval of the Govt. This shall apply **mutatis mutandis** to the cases where even deficiency of land is to be made up in the units prescribed for allotment to the displaced persons of 1947. Thus, no one other than the Govt. could have the powers of allotment in this regard.
- 6) During the course of proceedings, it has come to the notice of this court that some more land has been allotted in favour of the respondent No. 1 herein. A mutation No. 970 of village Barnai, Jammu was attested whereby she was conferred the occupancy tenancy rights under Sec. 3-A of the Agrarian Reforms Act, 1976 over land measuring 28 Kanals and 15 Marlas evacuee property falling under Khasra No. 663 and 664 in the said village. Similarly, another mutation No. 2915 of village Paloura, Jammu was

attested by virtue of which she was again conferred with occupancy tenancy rights over land measuring 09 Kanals and 03 Marlas falling under Khasra No. 378, 12 and 1260 Min. in that village.

- 7) Likewise, a mutation No. 1231 of village Muthi, Jammu shows that the respondent No. 1 was having occupancy tenancy rights under Sec. 3-A of the Agrarian Reforms Act, 1976 over land measuring 05 Kanals and 05 Marlas falling under Khasra No. 874/81 which has been sold to one Krishna Devi W/O Gandharb Singh and Sneh Lata W/O Surinder Kumar both R/O Jammu in equal shares. What is more, mutation No. 307 was attested under Govt. Order No. 254-C of 1965 whereby the respondent No. 1 was conferred with the ownership rights over land measuring 04 Kanals and 17 Marlas falling under Khasra No. 1080/4 in village Deeli, Jammu.
- 8) A critical analysis of the revenue record placed across the case file makes it amply clear that the respondent No. 1 was either conferred with ownership rights of land or with occupancy tenancy rights under different laws beyond the prescribed scale of entitlement. The laws which govern allotment for displaced persons prescribe certain limits but in the instant case, the same has been far exceeded. This requires a detailed enquiry and fixing of responsibility. Notwithstanding this, some of the lands in these mutations have been classified as different categories of "***Gair Mumkin***" and the same, therefore, are not available for allotment to the displaced persons. What has been done, therefore, in these mutations is a glaring illegality which needs to be corrected. Anyone who was involved in the process of excess allotment requires to show cause as to how and why such thing has happened.
- 9) Thus, for the reasons discussed above, the impugned mutation No. 554 dated 25.02.1995 is set aside. Above and beyond the present case, by invoking the revisional jurisdiction of this court under Sec. 15 and supervisory jurisdiction under Sec. 8 of the Land Revenue Act, 1996 (Smt.), the mutation No. 2915 dated 21.12.1988 and 1231 dated 19.10.1989 are also set aside. Any action done or purported to be done on the basis of these mutations is also hereby declared as null and void. No costs. Interim

directions, if any, shall stand vacated. The case file be relegated to records after due completion.

- 10) Moreover, the subordinate revenue officials are restrained from issuing any extract for alienation of lands involved in these mutations. The Deputy Commissioner, Jammu is directed to immediately form a committee of 03 experienced revenue officers to make a detailed enquiry into the matter. The committee shall examine the question of excess allotment in favour of the allottee and the other related issues and shall submit its report along with explicit recommendations to this office/court for further necessary action within a period of 02 months hereof. The Deputy Commissioner, Jammu shall provide all necessary help to the committee members during the enquiry. Let the case come up for administrative review of the report of the committee on 27.04.2015.

Sd/-

**(Dr. Arun Kumar) IAS
Financial Commissioner Revenue
(Commissioner Agrarian Reforms)
Jammu and Kashmir, Jammu**

Announced today on this the **10th day of
February, 2015** under my hand and seal of
this Court.