

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

FILE NO.
265/FC-AP

DATE OF INSTITUTION
16.01.2013

DATE OF DECISION
28.05.2015

- 1) ARJUN CHOUDHARY S/O RAJU CHOUDHARY R/O H.NO. 56 AD, GANDHI NAGAR, JAMMU;
- 2) SIDHANT CHOUDHARY S/O -----DO-----;
- 3) SUDERSHAN MAHAJAN S/O RAM CHAND MAHAJAN R/O H.NO. 56-A/D, GANDHI NAGAR, JAMMU.

(PETITIONERS)

VERSUS

- 1) CHANDER SHEKHAR S/O LATE GANESH DASS R/O K. C. MENSION, SHAKTI NAGAR, JAMMU.

(RESPONDENT)

In the matter of:

Revision petition against the order dated 03.09.2012 passed by the Assistant Settlement Officer, Jammu in a petition for demarcation of land in case titled, "Chander Shekhar Vs. Arjun Choudhary and others" whereby the petitioners have been restrained from raising any sort of construction till further orders.

For Petitioners --- Advocate O. P. Thakur

For Respondent --- Advocate G. C. Sharma

J U D G E M E N T

- 1) The concise facts of the case are that Sudershan Mahajan, petitioner No. 3 filed an application before the Deputy Commissioner, Jammu for

demarcation of land falling under khasra No. 1323/190, 1326/191, 1327/192 and 1328/193 in village Paloura, Jammu. In order to get the demarcation carried out properly, the Deputy Commissioner vide order dated 22.03.2007 constituted a committee comprising of Assistant Commissioner (R), Jammu, Tehsildar (S), Jammu, Tehsildar (N), Jammu, Naib-Tehsildar and the concerned *patwari/girdawar*. After doing the needful, the said committee submitted its report vide No. DCJ/SQ/07-08/240 dated 19.04.2007 observing that the petitioner No. 3 is entitled to land measuring 19 Kanals and 14 Marlas falling under the above stated khasra numbers.

- 2) Later, the order dated 22.03.2007 passed by the Deputy Commissioner, Jammu was challenged in revision before the then Financial Commissioner Revenue, Jammu and Kashmir. Earlier, it was observed by this court that the dispute is a simple case of demarcation of land under Sec. 94/95 of the Land Revenue Act, 1996 (smvt.) which can be best conducted in presence of both parties. It was ordered that the team of officers which had conducted the demarcation previously shall now conduct it afresh, but this time around, the same shall be carried out under the supervision of Settlement Officer, Jammu after which the parties shall be free to construct the boundary wall to protect their respective share of property.
- 3) Complying with the directions of this court, the committee conducted a fresh demarcation and affirmed its earlier demarcation vide report dated 19.01.2009. The matter was again brought to this court in revision questioning the validity of the latter report. After an analysis of the case, it was observed that the demarcation is done to ascertain the factual position only. No question of law is involved as it does not decide the rights of the parties. Further, the demarcation was done in presence of both parties on 19.01.2009. The revision petition was thus dismissed as not maintainable.
- 4) Starting a fresh episode of adjudication, the respondent herein moved an application before the Assistant Settlement Officer, Jammu for demarcation of the land mainly on the ground that only the share of the petitioner No. 3 was demarcated earlier and that his share was not included in that process. The Assistant Settlement Officer, Jammu vide order dated 03.09.2012

ordered status quo on the spot barring the petitioners herein from alienating the said land, raising any sort of construction or changing its nature.

- 5) In the third round of litigation, this order has been challenged in revision before this court. Initially, when the petitioners were not turning up, the case was dismissed in default. Afterwards, the petitioner filed an application for the restoration of the same. This court vide order dated 23.07.2014 felt it just and proper to restore the revision petition to its status but subject to a cost of Rs. 1000/- (Rupees One Thousand only).
- 6) An examination of the relevant record and the developments that have taken place in the matter from time to time reveals that the revenue authorities have successfully conducted the demarcation of the land. Even the Court of the 1st Additional Munsiff (Forests), Jammu has clearly held that the petitioners herein have succeeded in establishing that the land measuring 19 Kanals and 13 Marlas falling under the above stated khasra numbers belongs to them. Therefore, no further question remains to be adjudicated upon.
- 7) For the reasons aforesaid and after a thoughtful consideration of the matter, the order dated 03.02.2012 passed by the Assistant Settlement Officer, Jammu is set aside. The Assistant Settlement Officer, Jammu is directed to demarcate the land belonging to the respondent, if the same has not been done previously, but without interfering in the land of the petitioners. 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 **28th day
of May, 2015** under my hand and Seal
of this Court.