

**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>
411/FC-ARC/AP	23.04.2013	24.06.2015

- 1) ASHTOSH BAKSHI S/O OMKAR NATH R/O ALI KADAL, SRINAGAR, KASHMIR A/P 113-P, SECTOR 4, TRIKUTA NAGAR, JAMMU;
- 2) PUSHKAR NATH S/O JANKI NATH R/O -----DO-----;
- 3) IQBAL NATH S/O -----DO-----.

(APPELLANTS NO. 2 & 3 THROUGH ATTORNEY, APPELLANT NO. 1)

(APPELLANTS)

VERSUS

- 1) GHULAM QADIR TANTRAY S/O GAFFAR R/O FALRHAL, TEHSIL KHAN SAHIB, BUDGAM;
- 2) ZOONA W/O AHMED TANTRAY R/O -----DO-----;
- 3) MOHAMMAD AMIN S/O QADIR R/O -----DO-----;
- 4) MOHAMMAD MAQBOOL S/O -----DO-----;
- 5) MOHAMMAD AYOOB S/O -----DO-----;
- 6) ABDUL GANI S/O RAMZAN TANTRAY R/O -----DO-----;
- 7) ABDUL RASHID S/O -----DO-----;
- 8) BASHIR AHMED S/O -----DO-----;
- 9) AHMAD S/O KAMAL TANTRAY R/O -----DO-----;
- 10) ABDUL SAMAD S/O RAZAK SHEIKH R/O -----DO-----;
- 11) ABDUL SALAM S/O -----DO-----;
- 12) LR'S OF KHALIQ S/O MOHAMMAD SHEIKH R/O -----DO-----;
- 13) AHMED S/O -----DO-----;
- 14) ALI S/O -----DO-----;
- 15) RASOOL S/O -----DO-----;
- 16) SHABAN S/O RAMZAN SHEIKH R/O -----DO-----;
- 17) FAYAZ AHMED S/O REHMAN SHEIKH R/O -----DO-----;

- 18) MANZOOR AHMED S/O -----DO-----;
19) ALI MOHAMMAD S/O AHMAD R/O -----DO-----;
20) GHULAM NABI S/O -----DO-----;
21) ABDUL QAYOOM SHEIKH S/O -----DO-----;
22) LR'S OF AHMED S/O AKBAR R/O -----DO-----;
23) LR'S OF GH. AHMED S/O MOHD. TANTRAY R/O -----DO-----;
24) WALI S/O SHABAN TANTRAY R/O -----DO-----;

(RESPONDENTS)

- 25) MANAVINDER BAKSHI S/O NIRANJAN NATH R/O 113-P, SECTOR 4,
TRIKUTA NAGAR, JAMMU;
26) VEENA DHAR D/O -----DO-----;
27) SWANI MUNSHI D/O -----DO-----;
28) REETA TEJ PAUL D/O -----DO-----;
29) ANAPURNA D/O OMKAR NATH R/O -----DO-----.

(PROFORMA RESPONDENTS)

In the matter of:

Appeal against the order dated 18.01.2002 passed on mutation No. 338 under Sec. 7 of the Agrarian Reforms Act, 1976 by the Tehsildar (S), Budgam (Khan Sahib), with the prayer to set aside the same.

For Appellants --- Advocate M. L. Bhat
For Respondents --- Advocate Irshad Ahmed Dar

(1-8, 10, 11, 13-21, 27)

J U D G E M E N T

1)The present appeal has been filed against the order dated 18.01.2002 passed on mutation No. 338 of village Falchal, Tehsil Khan Sahib, District Budgam. Admitted facts of the case are that the predecessor-in-interest of the appellants had filed an application under Sec. 7 of the Agrarian Reforms Act, 1976 for resumption of land for bonafide

personal cultivation. The above stated mutation was entered to entertain their claim. However, the Tehsildar (S), Budgam, without considering the matter on merits passed an order dated 18.01.2002 whereby the mutation was dismissed as unwarranted (***Fazool tassavar ho kar kharij kiya jaata hai***).

2) Aggrieved, the appellants herein challenged action of the Tehsildar (S), Budgam before this court focussing on the ground that no notice was issued to the appellants and that the order impugned was passed in *ex parte* proceedings. But before this court could go into the merits of the case, the counsel for the respondents while arguing the case on 28.05.2015 expressly admitted the appeal and requested this court to set aside the impugned mutation. On the other hand, the counsel for the appellants submitted that the same may be done only in the light of the report of the Deputy Commissioner concerned which was submitted vide No. DCB/SQ/14/1500 dated 05.03.2014.

3) Having thus considered the facts and circumstances of the case as well as the requests of both the counsels, the order dated 18.01.2002 passed on mutation No. 338 is set aside. The case is remanded back to the Tehsildar concerned for taking further appropriate necessary action under the law governing resumption of lands for bonafide personal cultivation. No costs. Interim directions, if any, in the matter 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.