

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

FILE NO.
13/FC-ARC/AP

DATE OF INSTITUTION
30.03.2005

DATE OF DECISION
25.06.2015

1) BEHARI LAL S/O MEHNGA RAM R/O BURJ KHADER, JAMMU.

(PETITIONER)

VERSUS

1) LR'S OF KESAR SINGH S/O SUNDER SINGH R/O NANAK PURA, JAMMU.

(RESPONDENT)

In the matter of:

A) Appeal against the order dated 31.03.1989 passed by the Additional Tehsildar (AR) Jammu;

B) Case remanded by the Hon'ble High Court of J&K regarding the above stated subject.

For Petitioner --- Advocate O. P. Sharma

For Respondents --- Advocate Parminder Singh, Advocate Ajay Gupta

J U D G E M E N T

1) Virtually the present case is on the dockets of this court since 06.11.1990. Briefly stated, the facts of the case are that upon an application presented before the Additional Tehsildar (AR) Jammu by the respondent herein, the former vide an order dated 31.03.1989 considered the same as not maintainable and transferred it to the Tehsildar (Assistant Custodian), Jammu for disposal as the land in question was apparently an evacuee property. This action of the Additional Tehsildar was challenged in appeal before this court on the ground that he was not competent to transfer it to the other Tehsildar. This court vide its order dated 01.08.1996, therefore,

modified the impugned order to the extent that the application be returned to the party concerned for being presented before the appropriate forum. This order was then challenged in revision before the J&K Special Tribunal which was dismissed vide its order dated 14.10.1999.

- 2) The writ jurisdiction of the Hon'ble High Court of J&K then was invoked in the matter, which vide its order dated 13.09.2001 set aside the order dated 14.10.1999 passed by the J&K Special Tribunal as well as that of this court dated 01.08.1996 with the directions that the Financial Commissioner Revenue shall dispose of the appeal of the parties afresh. Accordingly, the matter was taken up for disposal. It is observed that the present case sadly displays a brazen abuse of the legal framework of the country, which is meant for the welfare of the down trodden, without going into the merits of the case anywhere. Unfortunately, even this court can't go into the merits of the case because the facts are not clear at all. The respondents claim this land to be evacuee property while the petitioner terms it as "nautor". The petitioner further raises some very pertinent issues in his written arguments filed on 21.04.2015 which need to be answered immediately. These are: A) Whether the evacuee land, the description of which as per the revenue record is "Rohar" (unculturable) can be allotted to a displaced person?; B) Whether the respondents possessed Form-A as provided under Cabinet Order No. 578-C of 1954 and whether the land alleged to have been allotted is reflected in the said Form-A, which is a basic document for allotment?; C) Whether the respondent actually took possession of the land after the alleged allotment, brought it under cultivation and started living in the village?; D) Whether failure to bring the land under cultivation stipulated within a period of six months from the date of the order would have adverse effects and whether the alleged allotment would then survive?.
- 3) Having considered the facts and circumstances of the case, the order passed by the Additional Tehsildar (AR), Jammu is set aside. The case is remanded to the Tehsildar concerned to look into the queries raised at Para 2 above by the appellant and to submit his findings to this court within 60

days of the receipt of this order. 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 **25th day
of June, 2015** under my hand and Seal
of this Court.