

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

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

DATE OF INSTITUTION  
**22.12.2010**

DATE OF DECISION  
**23.06.2015**

1) CUSTODIAN EVACUEE PROPERTY, JAMMU.

**(PETITIONER)**

**VERSUS**

1) ISHER DASS S/O RAMAN R/O NOWSHERA, DISTRICT RAJOURI;

2) GURDASMAL S/O BAGHWAN DASS KHATRI R/O -----DO-----.

**(RESPONDENTS)**

In the matter of:

**Reference dated 15.12.2010 made by the court of the Joint Settlement Commissioner, Jammu in revision petition against the order dated 11.09.1986 passed on mutation No. 104 by the Naib-Tehsildar concerned by virtue of which the occupancy tenancy rights have been transferred to the respondents with regard to the land measuring 46 Kanals and 13 Marlas falling under Khasra No. 46 in village Narian, Tehsil Nowshera, District Rajouri;**

For Petitioner	---	Advocate Sheikh Abdul Gani
For Respondents	---	Nemo

**J U D G E M E N T**

- 1) This is a reference made by the court of the Joint Settlement Commissioner, Jammu pertaining to the land measuring 46 Kanals and 13 Marlas alleged to be an evacuee property falling under Khasra No. 46 in village Narian, Tehsil Nowshera, District Rajouri. The present cause of action arose on 11.09.1986 when the Naib-Tehsildar concerned attested the impugned mutation No. 104 by virtue of which the occupancy tenancy rights over the said land were transferred to the respondents herein in equal shares.
- 2) Taking note of the same, the petitioner herein, which who the custodian of all evacuee properties, filed a revision petition challenging the impugned mutation before the Divisional Commissioner, Jammu who vide order dated 12.11.1999 transferred the same to the Joint Settlement Commissioner, Jammu for disposal under law. The court below in an *ex parte* disposal of the case observed that the class of impugned mutation has been mentioned as **“Sokhta Record”** (Burnt record). Technically, this category of mutation does not find a place in the classes of mutation as defined under Para 19 of the Standing Order 23-A. Moreover, the impugned mutation confers occupancy tenancy rights to the respondents allegedly on the basis of a sale deed but there is nothing to prove as to whether there was any such agreement between the parties or not. There was also no registered document which could justify the action of the attesting officer. In this background, the court below has submitted the case to this court under Sec. 15 (3) of the Land Revenue Act, 1996 (Smtv.) with the recommendation to set aside the impugned mutation.
- 3) A perusal of the relevant record clearly indicates that the class of mutation as written in the impugned mutation is not **“Sokhta Record”** (Burnt record) but it is attested on the basis of a sale deed. The order passed on the impugned mutation speaks of some sale of occupancy tenancy rights and destruction of the records in the year 1947. It does

not clearly express the intentions of the attesting officer as to what he actually wanted to do. The order passed on the impugned mutation is vague and cryptic which has no force to stand the test of law.

- 4) Having considered the facts and circumstances and for the reasons aforesaid, the reference made by the court below is accepted. The order dated 11.09.1986 passed by the Naib-Tehsildar concerned on mutation No. 104 is set aside. The case is remanded to the Tehsildar concerned for a ***de novo*** enquiry into the matter in presence of all concerned, including the Custodian department, and for taking further appropriate necessary action. 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 **24<sup>th</sup> day  
of June, 2015** under my hand and Seal  
of this Court.