

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

FILE NO.
357/FC-AP

DATE OF INSTITUTION
23.01.2014

DATE OF DECISION
29.07.2015

1) HARJEET SINGH S/O ANTAH SINGH R/O 332, SHAKTI NAGAR, JAMMU.
(PETITIONER)

VERSUS

1) JANAK KOUR W/O LATE ANTAH SINGH R/O QILA DARHAL, TEHSIL
NOWSHERA, DISTRICT RAJOURI;

2) PARAMJEET SINGH S/O -----DO-----;

3) GURBAKSH SINGH S/O -----DO-----;

4) HARBAKSH SINGH S/O -----DO-----;

5) CHARANJEET KOUR W/O HIMMAT SINGH R/O MOHRA CAMPLA (LAM),
TEHSIL NOWSHERA, DISTRICT RAJOURI;

6) HARJEET KOUR W/O GURDEEP SINGH R/O NONIAL, TEHSIL NOWSHERA,
DISTRICT RAJOURI;

7) GIAN KOUR W/O GURDIAL SINGH R/O -----DO-----;
(RESPONDENTS)

8) DALEEP KOUR W/O GURBAKSH SINGH R/O BREVI, TEHSIL NOWSHERA,
DISTRICT RAJOURI;

9) RAVINDER KOUR W/O PARTAP SINGH R/O -----DO-----.
(PROFORMA RESPONDENTS)

In the matter of:

**Revision against the order/judgement dated
03.06.2013 passed by the learned Additional
Commissioner (with powers of the Divisional
Commissioner), Jammu on file No. 41 of 2012-13.**

For Petitioners --- Advocate O. P. Sharma
For Respondents --- Advocate Ashwani Gupta

J U D G E M E N T

- 1) The controversy between the parties started when Balbir Kour, first wife of Antar Singh (respondent No. 1 being the second) filed a civil suit for declaratory decree before the 1st Civil Sub Judge, Municipal Magistrate, Jammu with respect to a house she was residing in at Shakti Nagar, Jammu. The civil court vide its order dated 30.03.1987 passed a decree declaring that she is the owner in possession of the said house. It was further directed therein that Antar Singh shall not alienate the subject of the dispute in any manner whatsoever. This order remained the subject of adjudication upto the Hon'ble High Court of J&K but nothing constructive could come out in favour of Antar Singh.
- 2) It appears that while implementing the said decree of 30.03.1987 in the revenue records, the Naib-Tehsildar, Jammu attested the mutation No. 1673 dated 10.03.1988 with regard to the land measuring 18 Marlas in favour of Balbir Kour. Aggrieved, Antar Singh challenged this mutation in an appeal before the Deputy Commissioner (Collector), Jammu who vide order dated 23.07.1992 observed that the said decree was not referred to the Collector by the Civil Court for execution as is required under Sec. 124 of the Land Revenue Act. The Naib-Tehsildar, Jammu, therefore, was not competent to give effect to the said decree in the revenue records. He has thus wrongly assumed jurisdiction which was not vested in him. In addition, Antar Singh had purchased 05 Marlas of land out of Khasra No. 392 and 15 Marlas from Khasra No. 393. Since there is no mention of any Khasra number in the decree, it is not understood as to how the Naib-Tehsildar has mentioned 18 Marlas out of Khasra No. 392 in the impugned mutation when 05 Marlas are the proprietary rights of Antar Singh in the said Khasra number. Relying on these two points, the Collector set aside the mutation No. 1673 dated 10.03.1988.
- 3) Dissatisfied, the petitioner herein challenged the order dated 23.07.1992 before the Divisional Commissioner, Jammu who transferred the same to the Additional Commissioner (with the powers of the Divisional Commissioner),

Jammu. The court below without going into the merits of the case dismissed the claim of the petitioner herein merely on the ground that the photo copy of the impugned order was not legible and the petitioner was not able to produce a certified copy of the same despite repeated directions.

- 4) The petitioner has now filed a revision petition before this court challenging the order passed by the Additional Commissioner (with the powers of the Divisional Commissioner), Jammu on various grounds. During the pendency of the case, the issue of certified copy of the order dated 23.07.1992 passed by the Deputy Commissioner (Collector), Jammu once again arose but the petitioner has provided a copy of the said order duly attested by the Naib-Tehsildar, General Record Room, Jammu. At this moment, therefore, the only substantial question of law which is required to be considered is as to whether the Naib-Tehsildar, Jammu was competent to incorporate the decree of the civil court in the revenue records when it was not addressed to him or to the District Collector. The issue has been very well addressed by the Deputy Commissioner (Collector), Jammu in his order dated 23.07.1992 which this court agrees with. There remains no other question then to be adjudicated upon by the revenue courts in the instant case.
- 5) For the reasons aforesaid and after a careful reflection over the matter, the revision petition is rejected. The order of the court below is upheld as without a certified copy it was not possible for it to decide the issues on merits. 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 **29th day**
of July, 2015 under my hand and Seal
of this Court.