

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

FILE NO
180/FC-AP

DATE OF INSTITUTION
03.01.2012

DATE OF DECISION
10.02.2015

- 1) LEGAL REPRESENTATIVES OF KASHI NATH S/O LAMBOODAR NATH R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P LANE NO. 1, ANAND NAGAR BOHRI, JAMMU;
- 2) NIL KANTH S/O LAMBOODAR NATH R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P ADARSH NAGAR, KHAJURIA MOHALLA, PALOURA TOP, JAMMU;
- 3) OMKAR NATH S/O LAMBOODAR NATH R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P WAZIR BAGH, ANAND NAGAR BOHRI, JAMMU;
- 4) SHANTI DEVI W/O NIRANJAN NATH R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P 304 SARWAL, JAMMU;
- 5) MOHINI DEVI W/O LATE SOOM NATH R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P H.NO. 166, BHAGWATI NAGAR EXTENSION, JAMMU.

(PETITIONERS)

VERSUS

- 1) PUSHKAR NATH S/O NAND LAL R/O QASBA BAGHAT, ACHABAL ADDA ANANTNAG A/P H.NO. 34, INDIRA COLONY, CAMP ROAD, TALAB TILLO, JAMMU;
- 2) DEPUTY COMMISSIONER, ANANTNAG;
- 3) ASSISTANT COMMISSIONER (REVENUE), ANANTNAG.

(RESPONDENT)

In the matter of:

**Revision petition against the order dated 31.03.2011
passed by the Assistant Commissioner (Revenue),
Anantnag.**

For Petitioners --- Advocate Virender Bhat
For Respondent No. 1 --- Advocate M.K.Raina

J U D G M E N T

- 1) Briefly stated, the controversy is related to the land measuring **19 Marlas falling under khasra No. 4587/1858 (01 M-04 Sarsai-11 Sq.Ft.), 4381/1602 (05M), 4380/1602 (05M) and 4588/1858 (08M) in Qasba Bhagat Achabal Adda, Anantnag.** This land has entered in the ownership of Mst. Tarawati Wd/O Gobind (One share), Lamboodar S/O Sehajram (One share) and Poshkar Nath (Two shares) in the ***Jamabandi*** of 1967-68.
- 2) Anticipating the disposal of his property by the other co-sharers, the respondent No. 1 moved the Assistant Commissioner (Revenue), Anantnag for correction of ***girdawari*** entries with regard to the extent of his entitled share. The court below examined the relevant revenue record and came out with detailed observations specifying therein the entitlement of each co-sharer. It held that some of the co-sharers have already sold land in excess of what they were entitled to and that the applicant (Resp. No. 1 herein) has not received his share of 9½ Marlas. In addition, only land measuring 08 Marlas falling under Khasra No. 4588/1858 which is recorded under the tenancy of Lamboodar and Poshkar Nath in equal shares and 02 Marlas-05 Sarsai-21 Sq. Ft. falling under Khasra No. 4381/1602 recorded under the tenancy of Tarawati Wd/O Late Gobind is left behind. Therefore, the court below after relying on the reports of the subordinate revenue officers and

considering the facts and circumstances of the case directed that the land measuring 08 Marlas falling under Khasra No. 4588/1858 and 01 Marla-4½ falling under Khasra No. 4381/1602 totalling 9½ Marlas be recorded in the name of the respondent No. 1 herein as his share in the tenancy column of ***girdawari*** of 1971 under Govt. Order No. LB-133 of 1989.

- 3) This court has gone through the case file, the materials placed and the written submissions filed by the parties. It is observed that the court below has rightly examined the revenue record. The quantum of land due to each share holder as per records has been accurately sorted out. Surprisingly, action for the correction of ***girdawari*** entries of 1971 has been ordered to be taken under the Govt. Order No. 133 of 1989, when the basic purpose of this order is exclusively related to the correction of ***girdawari*** entries for the implementation of the provisions of the Agrarian Reforms Act, 1976. However, in the instant case, no question of such an implementation is involved. Furthermore, the said Govt. Order provides that in no case correction of ***girdawari*** entry shall be made after 30.09.1989, the deadline set for the completion of Agrarian Reforms work.
- 4) No doubt that the Assistant Commissioner (Revenue), Anantnag has correctly ascertained the land holding of each share holder and the extent to which each of them has sold his/her land. But this preceded the course to be adopted for the correction of ***girdawari*** entry of 1971, which is not proper. What is more, this court is of the considered opinion that the present, and like, cases can only be dealt with under the provisions for partition of land as laid down in the Land Revenue Act, 1996 (Smt.) and the rules made thereunder. Moreover, with the fixing of stamp duty rates for the lands in the entire state, the valuation of plots has become easy and therefore, the partition can be done quite easily.

5) In view of what has been observed above, the order impugned is set aside. The case is remanded to the District Magistrate, Anantnag for a **de novo** enquiry in the matter and for taking further necessary action under law. If it is found that any one of the co-sharer has sold land in excess of his/her share, the other may be appropriately compensated. 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 Agraria+n Reforms)
Jammu and Kashmir, Jammu**

Announced today on this the **10th day of
February, 2015** under my hand and seal of
this Court.