

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

FILE NO.
420/FC-ARC/AP

DATE OF INSTITUTION
29.07.2013

DATE OF DECISION
16.12.2014

1) MEENAKSHI D/O OMKAR NATH KOUL R/O HANGALGUD, TEHSIL KOKERNAG DISTRICT ANANTNAG, KASHMIR **A/P BOHRI JAMMU.**
(APPELLANT)

VERSUS

1) ALI MOHD. MIR S/O ABDULLAH MIR R/O NARPORA, TEHSIL KOKERNAG AND DISTRICT ANANTNAG;
2) MOHD. MAQBOOL S/O -----DO-----;
3) MANZOOR AHMED S/O -----DO-----;
4) NISAR AHMED S/O -----DO-----;
5) SHAM LAL S/O NEIL KANTH R/O HANGALGUD, TEHSIL KOKERNAG DISTRICT ANANTNAG, KASHMIR **A/P BOHRI JAMMU.**
(RESPONDENTS)

In the matter of:

A) Appeal in terms of Sec. 21 (1) of the J&K Agrarian Reforms Act, 1976 against order dated 25.12.1989 passed on mutation No. 1352/1 attested under Sec. 4 of the said Act with regard to land measuring 05 Kanals falling under Khasra No. 381 (Min.) in village Bidder Hayatpora, Tehsil Kokernag and District Anantnag by virtue of which the respondents No. 1 to 4 have been declared as Prospective Owners

B) Appeal in terms of Sec. 21 (1) of the J&K Agrarian Reforms Act, 1976 against order dated 27.12.1989 passed on mutation No. 1460 attested under Sec. 8

of the said Act where under ownership rights with regard to the above stated land have been conferred on the respondents No. 1 to 4.

For Petitioner --- Advocate J.M.Razdan

For Respondent --- Advocate Monika Kohli

J U D G E M E N T

- 1) The summarised facts of the case are that land measuring 05 Kanals stated herein above was in the ownership of one Shamboo Nath and others which was in the personal cultivation of Nand Lal and others. It is alleged that the Tehsildar concerned attested a mutation **No. 1352/1** by virtue of which the rights of the owners over the said land were extinguished and the land was vested in the state declaring the respondents No. 1 to 4 as Prospective Owners. Later, vide mutation No. 1460 dated 27.12.1989, the respondents 1 to 4 were made owners under Sec. 8 of the Agrarian Reforms Act, 1976
- 2) Aggrieved, the petitioner has filed the present appeal challenging the impugned mutation on various grounds which have been countered by the respondents while filing their objections. This court has gone through the case file and other connected record as well as the written submissions filed by the parties. Column No. 1 of the mutation under Sec. 4 of the Agrarian Reforms Act indicates that it has been allocated a divisible serial number, viz., 1352/1. **Rule 9 of the Standing Order 23-A** dealing with the subject of attestation of mutations lays down that the serial number of mutation cases for each village should be continuous for the whole term of the settlement and each case should be given a separate serial number. No instance has been provided in the said standing order or any other law for the time being in force where a mutation can be assigned a divisible number.

- 3) Leaving the same aside, had the respondents been cultivating the land under consideration as tillers on the determinant date and met all the requirements to become as prospective owners, a mutation under Sec. 4 of the Agrarian Reforms Act, 1976 could have been attested in that behalf by allotting it a serial number next to the latest Entered/Attested mutation concerning that village. Moreover, mutation No. 1460 has been attested under Sec. 8 of the said Act on the basis of mutation No. 1352/1 by virtue of which ownership rights have been conferred on the respondents No. 1 to 4. This infers that the record has been manipulated and managed just to give benefit to the respondents herein.
- 4) Having considered the facts and circumstances of the case, the appeal is allowed and the mutation No. 1352/1 is set aside. In addition, the order passed on the second mutation No. 1460 dated 27.12.1989 is also quashed. The matter is remanded to the District Magistrate, Anantnag for a *de novo* enquiry under the **Jammu and Kashmir Migrants immovable property (Preservation, Protection and Restraint on distress sales) Act, 1997** in the matter and further appropriate necessary action under law. 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 **16th day of December, 2014** under my hand and Seal of this Court.