

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

FILE NO.

DATE OF INSTITUTION

DATE OF DECISION

29.07.2013

23.12.2014

1) MEENA ANAND W/O SUNIL ANAND R/O W.NO. 5/7 SAMBA, TEHSIL AND DISTRICT SAMBA **(THROUGH ATTORNEY SUNIL ANAND S/O KAKA RAM R/O W.NO. 5/7 SAMBA, TEHSIL AND DISTRICT SAMBA)**

(APPELLANT)

VERSUS

- 1) STATE THROUGH THE PROVINCIAL REHABILITATION OFFICER (CUSTODIAN) JAMMU;
- 2) TEHSILDAR SAMBA;
- 3) GULAB SINGH S/O PHULA SINGH R/O H.NO. 101, NANAK NAGAR, JAMMU;
- 4) RAJ KUMAR S/O RAM KRISHAN R/O VILLAGE MEERTH, TEHSIL AND DISTRICT JAMMU;
- 5) JUGAL KISHORE S/O OM PARKASH R/O VILLAGE RASOO P/O HATLI, TEHSIL AND DISTRICT KATHUA;
- 6) VISHAL SINGH S/O LATE RAVI SINGH R/O RAIPUR, SATWARI TEHSIL AND DISTRICT JAMMU;
- 7) BALRAJ SINGH S/O -----DO-----;
- 8) SARDARI LAL S/O JAGAN LAL R/O PWD COLONY, W.NO. 2, TEHSIL AND DISTRICT KATHUA.

(RESPONDENTS)

In the matter of:

Appeal against order dated 27.07.2006 passed on mutation No. 166/1 attested under Sec. 3-A of the Agrarian Reforms Act, 1976 by virtue of which occupancy tenancy rights with regard to the land measuring about 46 Kanals falling under Khasra No. 434/135, 136, 137, 141, 151, 153, 156, 293, 143, 138,

139, 285, 118 min. and 142 min. in village Chak Nanak, Tehsil and District Samba have been conferred on the respondent No. 3 herein.

For Appellant --- Advocate Kuldip Singh Parihar

For Respondent 6 & 7 --- Advocate Ashwani Thakur

J U D G E M E N T

- 1) Briefly stated, facts of the case are that the above stated land is an evacuee property which has been shown as allotted to one Gulab Singh S/o Phoola Singh, the respondent No. 3 herein, as a refugee allottee of 1947 in the impugned mutation. It is alleged that the Tehsildar Agrarian Reforms, Samba (H.Q. at Vijaypur) attested the impugned mutation **No. 166/1** under Sec. 3-A of the Agrarian Reforms Act, 1976.
- 2) Aggrieved, the appellant has filed the present appeal challenging the impugned mutation on various grounds which have duly been countered by the respondents in their written 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 impugned mutation indicates that it has been allocated a divisible (Bata) serial number, viz., 166/1. **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) It is evident, therefore, that had the respondent No. 3 been validly allotted the land under consideration and had he been cultivating the same in Kharif, 1971, a mutation under Sec. 3-A of the above said Act could have been attested in his favour by allotting it a serial number next to the

last/latest Entered/Attested mutation concerning that village. However, the same has not been so in the instant case. This means that the record has been manipulated and the impugned mutation inserted later malafidely just to give benefit to the respondent No. 3 herein.

- 4) Having considered the facts and circumstances of the case, the appeal is allowed and the mutation impugned is set aside. The matter is remanded to the Tehsildar concerned for a **de novo** enquiry 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 **23rd day of**
December, 2014 under my hand and Seal
of this Court.