

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

<u>FILE NO</u>	<u>DATE OF INSTITUTION</u>	<u>DATE OF DECISION</u>
410/FC-ARC-AP	10.12.2013	23.12.2014

- 1) ROMESH CHANDER S/O LATE LABBU RAM R/O VILLAGE JAMOTIAN,
TEHSIL AKHNOOR AND DISTRICT JAMMU;
 - 2) SURESH KUMAR S/O -----DO-----;
 - 3) SHAM LAL S/O -----DO-----;
 - 4) PARSHOTAM LAL S/O -----DO-----.
- (APPELLANTS)**

VERSUS

- 1) LEGAL HEIRS OF MELA RAM S/O AMAR NATH @ NATH R/O PANGIARI,
TEHSIL AKHNOOR AND DISTRICT JAMMU;
 - 2) ASSISTANT COMMISSIONER REVENUE, JAMMU;
 - 3) SHER SINGH, ASSISTANT COMMISSIONER REVENUE, JAMMU.
- (RESPONDENTS)**

In the matter of:

**Appeal against the judgement/order dated
18.10.2013 passed by the Assistant Commissioner
Revenue (Collector Agrarian Reforms) Jammu in a
petition under Sec. 3 (n) read with Sec. 19 (3) of the
Agrarian Reforms Act, 1976.**

For Appellants --- Advocate Roop Lal
 --- Advocate Monika Bhagat
 --- Advocate Roopika

For Respondents --- Advocate Keshav Chander Gupta

J U D G E M E N T

- 1) The present controversy concerns land measuring 05 Kanals and 15 Marlas falling under Khasra No. 1072 in village Pangiri, Tehsil Akhnoor and District Jammu. This land was allotted to Labbu Ram, father of the appellants herein under Government Order No. LB/7 of 1954. The said Labbu Ram had moved the office of the Deputy Commissioner Jammu against the State for granting of ownership rights over State Land measuring 38 Kanals and 04 Marlas falling under Khasra No. 1072 (05K-15M), 1075 (11K-17M) and 1082 (20K-12M) at the above noted location on 19.09.1994. However, Mela Ram, respondent No. 1 herein claiming to be in possession of the disputed land of 05 Kanals and 15 Marlas became respondent after directions from the Hon'ble High Court.
- 2) However, the main issue got derailed and other connected issues remained under consideration before many fora including this court as well as the Hon'ble High Court of J&K. Finally, the court below took up the main matter for disposal on 28.09.2011. After examining the case file and the connected record, the court below observed that the claims of the appellants herein to declare them as owner by prescription/adverse possession under Sec. 19(3)(e) of the Agrarian Reforms act, 1976 is not maintainable as this provision relates to such cases where a party in possession pleads adverse possession against a recorded owner/intermediary. In the instant case, the land is in the ownership of State and, therefore, this provision is not attracted.
- 3) Additionally, the court below was of the view that the appellants have sought relief under Sec. 3(n) of the said Act. The appellant's father was simply an allottee of the State land and the Agrarian Reforms Act does not contain any provision under which such allottees can be considered for the grant of ownership rights.
- 4) Thus, taking all this into consideration, the court below dismissed the application of the father of the appellants herein as misconceived and not maintainable. The Tehsildar Akhnoor was directed to take all the provisions laid down in the Government Order No. LB/7-C of 1958 and Order No. Rev (LB) 202 of 2007 including the conditions and violations there under, if any, into consideration and decide the case on merits.

Pending disposal of that issue, the Tehsildar concerned may also issue appropriate directions to ensure that the party presently in possession of the land under dispute is not illegally or forcibly disturbed from that land by any other person.

- 5) This court has diligently gone through the case file and observes that the court below has addressed the controversy in its right perspective. The findings of the court below are detailed, cogent and need not be interfered with. Heading a step forward, as the disputed land is State land, this is now to be seen as to in what capacity, the person who is in possession thereof is holding the said land.
- 6) Thus, in view of what has been observed above, this court holds that the appeal is devoid of merits and therefore, dismissed. Accordingly, the order impugned is upheld. The case is remanded to the Tehsildar concerned for a *de novo* enquiry in the matter and for taking 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.