

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

FILE NO.
302/FC-AP

DATE OF INSTITUTION
20.07.2013

DATE OF DECISION
18.11.2014

SANSAR SINGH S/O CHAIN SINGH R/O GURHA SLATHIAN TEHSIL SAMBA.
(PETITIONER)

VERSUS

STATE THROUGH TEHSILDAR SAMBA.

(RESPONDENT)

In the matter of:

Reference dated 16.07.2013 made by the court of the Additional Commissioner Jammu (with powers of Divisional Commissioner Jammu) in revision petition challenging orders passed on mutation No. 81, 82, 83 and 302 whereby land measuring 65 Kanals and 14 Marlas falling in villages Partap Singh Pura and Rakh Barotian both in district Samba was ordered to be vested in the state under the Big Landed Estates Abolition Act, 2007 Bk.

For Petitioner --- Advocate Rameshwar Singh Jamwal

For State --- Revenue Attorney

J U D G E M E N T

- 1) Briefly stated, facts of the case are that one Sant Singh S/O Phoola Singh was the owner of the land measuring 65 Kanals and 14 Marlas along with some other land falling under different Khasra numbers in villages Partap Singh Pura and Rakh Barotian in Tehsil Samba. This land came

under the purview of the Big Landed Estates Abolition Act, 2007 Bk. Consequently, the Special Tehsildar Samba attested the impugned mutations on the basis of which the afore stated land was ordered to be vested in State under the provisions of the said Act.

- 2) Aggrieved, the petitioner herein (**Grandson of Sant Singh**) moved the Deputy Commissioner Jammu regarding the restoration of the disputed land through different applications and representations stating therein that it has been wrongly vested in the State. A report was also called for in this regard from the Assistant Commissioner (G) Jammu. After many formalities at different levels, the matter terminated in the court of the Additional Commissioner Jammu (with powers of the Divisional Commissioner).
- 3) The court below went through the case file and after putting reliance on some report of the Assistant Commissioner (G) Jammu observed that the orders passed on the impugned mutations vesting the disputed land in the State is without jurisdiction. It held that the said land was uncultivable which has also been shown as such in the **Jamabandi** of the concerned villages. Moreover, since the petitioner holds only 52 Kanals of land, he is, under the Big Landed Estates Abolition Act, entitled to hold more. The land under consideration being uncultivable should have not been vested in the State. Rather it should have remained with the owner as the provisions of the said Act were inapplicable to this kind of land. Taking all this into consideration, the court below has recommended to set aside the four impugned mutations with the direction to the Tehsildar concerned to restore the land in question to the petitioner under law, and has submitted to this court for confirmation of the order under Sec. 15(3) of the Land Revenue Act, 1996 (Smt.).
- 4) This court has gone through the case file. The objections filed on behalf of the state and the counter objections filed by the petitioner have also been given due consideration. It is observed that the court below has not appreciated the revenue record in the right perspective. Surprisingly, it has chosen to rely on a doubtful report of the Assistant Commissioner (G) Jammu which being a Xerox copy is also without any dispatch number and date. This court is disappointed to observe that the court

below followed an erroneous track in deciding the matter before it. This court, therefore, disagrees with the views expressed by the court below as the same are not cogent at all.

- 5) Furthermore, this court feels that the only question which would have set the whole controversy at rest is as to whether the land under consideration is un-culturable and/or comes under the exemptions set out in the Big Landed Estates Abolition Act or not?. Under the provisions of the said Act, exemption was granted to only those lands which were **Araks, Kaps, Kah Krisham and were used for growing fuel and fodder and as such are un-culturable**. The Revenue Attorney has rightly pointed out that the contention of the petitioner about the land being un-culturable and coming under said exemptions is not justified as it does not come within any of the afore said categories. Interestingly, the rebuttal filed by the petitioner does not respond to the query raised by the Revenue Attorney. This court is of the view, therefore, that the land under consideration was NOT out of the purview of Big Landed Estates Abolition Act, 2007 Bk. The Tehsildar Samba was, therefore, not wrong in escheating the said land to the State.
- 6) For the reasons discussed above, therefore, the reference made by the court of the Additional Commissioner Jammu (with powers of the Divisional Commissioner) is **NOT** allowed. The orders passed on all the four impugned mutations No. **81, 82, 83 and 302** are upheld. 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 **18th day of**
November, 2014 under my hand and seal
of this Court.