

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

FILE NO.
160/FC-AP

DATE OF INSTITUTION
25.11.2011

DATE OF DECISION
24.06.2015

- 1) SATYA DEVI WD/O LATE SUKHAM SINGH R/O VILLAGE SARORE, TEHSIL BISHNAH, DISTRICT JAMMU.

(PETITIONER)

VERSUS

- 1) SURINDER SINGH S/O BAISAKHI SINGH R/O VILLAGE SARORE, TEHSIL BISHNAH, DISTRICT JAMMU;
- 2) BALDEV SINGH S/O -----DO-----;
- 3) SUKHAM SINGH S/O -----DO-----;
- 4) SURJEET SINGH S/O -----DO-----;
- 5) MANGAL SINGH S/O -----DO-----;
- 6) RANO DEVI D/O NAIN SINGH R/O -----DO-----;
- 7) RATTAN SINGH S/O MANGAL SINGH R/O -----DO-----;
- 8) KULDEEP SINGH S/O -----DO-----.

(RESPONDENTS)

In the matter of:

- A) Reference dated 23.11.2011 made by the court of the Settlement Commissioner, Jammu and Kashmir in revision petition against the order dated 01.09.2005 passed by the Director Land Records (Settlement Officer), Jammu with regard to 06 Marlas of land falling under Khasra No. 698 in village Sarore, Tehsil Bishnah, District Jammu;**
- B) Reference dated 23.11.2011 made by the court of the Settlement Commissioner, Jammu and Kashmir**

in revision petition against the order dated 12.08.2010 passed by the Deputy Commissioner, Jammu with regard to the aforesaid land.

Nemo for the parties.

J U D G E M E N T

- 1) The summarised facts of the case are that Satya Devi, petitioner herein is the owner of land measuring 06 Marlas falling under Khasra No. 698 in village Sarore, Tehsil Bishnah, District Jammu. The dispute between the parties started for the first time in 1999 when the Tehsildar, Bishnah directed an entry of a pathway with regard to the land under consideration in the register *girdawari*. It appears that the said pathway leads to the houses of the respondents herein in Khasra No. 699.
- 2) The petitioner herein brought an action before the Director Land Records (Settlement Officer), Jammu challenging the order of the Tehsildar, Bishnah in an appeal. After going into the facts and circumstances of the matter, the said court allowed the appellant's claims and set aside the order impugned. However, the petitioner was directed to allow the respondents to use that pathway with the further observation for the acquisition of the land of the petitioner by the Deputy Commissioner, Jammu and subsequent payment of compensation.
- 3) Unsatisfied, the petitioner herein questioned the legality of the order passed by the Director Land Records, Jammu in revision before the Settlement Commissioner, Jammu and Kashmir. The court below observed that the Director Land Records on one hand has rightly held that the action of the Tehsildar, Bishnah is against the law but has at the same time allowed the respondents to use the land as a pathway directing the petitioner to approach the Deputy Commissioner, Jammu for acquisition and compensation for the land underneath pathway.

The court below further said that the exercise of right over pathways and places used for common or public purposes comes under Sec. 3 of the Common Lands (Regulation) Act, 1956. This case in no way comes under the purview of the aforesaid Act.

- 4) As regards the second reference, the Deputy Commissioner, Jammu seems to have passed the order dated 12.08.2010 with respect to the land in question as a follow-up of the impugned order dt. 01.09.2005 of Director Land Records (Settlement Officer). The court below observed that this order was passed during the pendency of the revision petition before the court below and opined that if the impugned order of the DLR is to be set aside, so should be this order. Taking these causes into consideration, the court below has submitted the case to this court with the recommendation to set aside the order of the Director Land Records, Jammu to the extent it pertains to let the respondents to use the pathway.
- 5) This court has carefully gone through the case file and observes that the court below has rightly settled the issues. The land in question is exclusively the ownership land of the petitioner and is not a common property. There is, therefore, no reason to disagree with the observations made by the court below. However, it is very unfortunate that the petitioner who is a widow is running from pillar to post for the settlement of a trivial issue related to her proprietary land.
- 6) Having considered the facts and circumstances of the case and for the reasons aforesaid, both the references dated 23.11.2011 made by the Settlement Commissioner, Jammu and Kashmir are accepted. The impugned orders dated 01.09.2005 passed by the DLR, Jammu and dated 12.08.2010 passed by the Deputy Commissioner, Jammu are both set aside. The case is remanded to the Tehsildar concerned for further appropriate necessary action in the matter. 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 **24th day**
of June, 2015 under my hand and Seal
of this Court.