

J U D G E M E N T

- 1) The present controversy before this court is related to land measuring **15 Kanals and 07 Marlas falling under Khasra No. 313/198 in village Narwal Bala Jammu**. The Naib Tehsildar Bahu, Jammu attested the impugned mutation No. 996 dated 21.06.1993 on the basis of a decree of the civil court Jammu.
- 2) Aggrieved, Noor Din, father of the non applicant/respondent herein challenged the above stated mutation before the court of the ASO Jammu. In short, the court below observed that the order on the impugned mutation has been passed with respect to land over which mutation No. 320 under Sec. 4 and mutation No. 936 under Sec. 8 of the Agrarian Reforms Act, 1976, respectively already stands attested. The said court considered the impugned mutation as baseless and in violation of Sec. 28-A of the same Act and accordingly directed to set aside the same.
- 3) Dissatisfied, the appellants herein went in appeal before the court of the Settlement Commissioner Jammu and Kashmir. The court below returned the petition on 05.08.2011 with the suggestion to the appellants to approach the court of competent jurisdiction for Agrarian Reforms. However, on 03.08.2011, the petitioners had already moved the J&K Special Tribunal in revision against the order of the ASO Jammu. The Tribunal disposed off the revision petition on 27.11.2002 as not maintainable and held that the petitioners may approach the Commissioner Agrarian Reforms as the matter is related to the Agrarian Reforms Act, 1976. The appellants subsequently filed the above titled appeal against the order passed by the court of the Assistant Settlement Officer Jammu before the court of the Joint Commissioner Agrarian Reforms Jammu. Later, during the pendency of the said appeal before the court below, they filed the present application for the transfer of the said appeal before this court. The application was processed and a para wise reply along with the record was called for from the court below. The case file was submitted, however, the reply could not be tendered due to the abolition of the court below by the Govt. of Jammu and Kashmir. Later, the parties entered into a compromise and a copy of the

agreement was submitted in this court. Consequently, the matter was reserved for orders.

- 4) The court of the Assistant Settlement Officer Jammu has pointed out a very important aspect of the matter that the impugned mutation has been attested in violation of the provisions of the Agrarian Reforms Act, 1976. However, the court below took no further action except for holding the impugned mutation as baseless and setting it aside. The court simply directed the Patwari concerned to make relevant entry in the record regarding the same. In order to implement the law in letter and spirit and to see that none of its provision is defeated, there is a need to ascertain actual ground position vis-a-vis record. In such a situation, this court can't allow the compromise.
- 5) Thus, in view of what has been discussed above, the appeal is **NOT** allowed. The order passed by the court of the Assistant Settlement Officer Jammu is upheld. The case is remanded to the Collector Agrarian Reforms Jammu for enquiring the matter afresh with regard to the violation of the provisions of the Agrarian Reforms Act, 1976, if any, as observed by the court of the ASO Jammu and accordingly to take appropriate action in this regard or to forward the case along with specific recommendation of the action to be taken to the authority competent to take that decision under the relevant provision thereof. All this exercise shall be completed within a period of 60 days hereof. A compliance statement shall also be submitted to this court within this time. 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 21st day of
July, 2014 under my hand and seal of this
Court.