

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

FILE NO.  
**216/FC-AP**

DATE OF INSTITUTION  
**12.01.1998**

DATE OF DECISION  
**22.04.2015**

1) STATE OF JAMMU AND KASHMIR.

**(PETITIONER)**

**VERSUS**

1) LEGAL HEIRS OF CHATRU RAM S/O CHATRU RAM R/O BALAN PAIN,  
TEHSIL HIRANAGAR, DISTRICT KATHUA;

2) ALL OTHER ILLEGAL OCCUPANTS OF THE LAND UNDER CONSIDERATION.  
**(RESPONDENTS)**

In the matter of:

**a) Application filed by the respondent No. 1 for stopping  
the settlement operations in Tehsil Hiranagar, District  
Kathua;**

**b) Sou moto revision with regard to the illegal possession  
of State land.**

For State --- Assistant Revenue Attorney

For Respondents --- Nemo

**J U D G E M E N T**

1) The present case is on the dockets of this court since 12.01.1998. Initially the cause of action arose on 01.4.1975 when the Tehsildar, Hiranagar

ordered for cancellation of the entries made in the record with regard to the State land, measuring 34 Kanals and 10 Marlas falling under Khasra No. 95/44 (old), 174/100/82 (old), 138/25 (old), 53 min. (old) and 133/44 (old) in village Balan Pain, Tehsil Hiranagar. This order was challenged in appeal before the Deputy Commissioner, Kathua who vide order dated 25.03.1978 upheld the impugned order. The order passed by the Deputy Commissioner, Kathua was assailed in revision before the Divisional Commissioner, Jammu who vide order dated 24.04.1986 held both the impugned orders of the Tehsildar as well as the Deputy Commissioner as "void ab initio" and recommended to remand the case to Tehsildar Hiranagar to allow the petitioners to retain land to the extent of their entitlement under Cabinet Order LB 6-C of 1958.

- 2) The then Financial Commissioner Revenue transferred this reference to the Deputy Commissioner Central (with powers of Financial Commissioner Revenue), who disposed of the case by upholding the order of the Divisional Commissioner, Jammu vide his order dated 26.08.1997. It appears that a review petition was also filed afterwards but no record is available in this behalf.
- 3) Later on receipt of a complaint regarding the petitioner's encroachment over state land measuring 02 Kanals and 07 Marlas in Khasra No. 719 (min.) categorised as "Gair Mumkin Khad", the Tehsildar, Hiranagar vide order dated 06.02.2009 ordered the illegal occupants to vacate this common land. In this second round of litigation, this order was challenged before the Deputy Commissioner, Kathua who vide her order dated 17.03.2009 dismissed the appeal. This order was challenged in revision before the Divisional Commissioner, Jammu who upheld the order passed by the Deputy Commissioner Kathua and directed the Tehsildar, Hiranagar to go ahead under Sec. 133 of the Land Revenue Act, 1996 (smvt.) and evict the illegal encroachers.
- 4) While exercising the revisional powers, the record file of the Deputy Commissioner Kathua was called which has been duly submitted. An examination thereof shows that the appellants therein had submitted that the land under consideration is "**Gair Mumkin Khad**" but they have brought

the said land under cultivation by “*nautor*”. By definition, these lands are connected with the collection of surface water in the area, are common lands and in no case can be brought under cultivation. These lands, therefore, can’t come under the ambit of “**Nautor**”. The assertion made by the appellants is, therefore, incorrect and wrong. Moreover, the issue has already been set at rest by this court as well as by the other subordinate courts.

- 5) Having considered the facts and circumstances of the case, the Tehsildar concerned is directed to proceed further in the matter with regard to eviction proceedings. In addition to this, other illegal encroachers be also dispossessed of the State land under the provisions of “**The Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act, 2001**” commonly known as “**Roshni Act**” and after following a due process of any other law for the time being in force. 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 **21<sup>st</sup> day**  
**of April, 2015** under my hand and Seal  
of this Court.