



In the Court of Additional Commissioner, Jammu

(With the powers of Divisional Commissioner)

(Rail Head Complex, Jammu)

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File No.

73/Revision/2019-20

Date of Institution

21-10-2019

Date of Decision

08/07/2021

Kuldeep Kumar S/o Mela Ram R/o Village Machedi, Tehsil Lohai Malhar
...Petitioner

Versus

1. State of J&K through the Tehsildar, Billawar and
2. State of J&K through the Tehsildar, Lohai Malhar

...Respondents

In the matter of:-

Revision Petition against order dated 24.11.2003 passed by the Tehsildar Billawar in file no. 152 (date of institution 20-01-2003) for eviction of the petitioner from the land comprised of Khasra no. 1554/1448/883 min situated at Village Machedi, erstwhile Tehsil Billawar at present Lohai Malhar.

ORDER

This revision petition has been transferred to this Court by the Ld. Divisional Commissioner Jammu vide order dated 19/10/2019. The brief facts, as enumerated by the Petitioner are that he has constructed a residential house over a piece of land measuring around 10 marlas comprising Khasra no. 1554/1448/883 min. situated at Village Machedi Tehsil Lohai Malhar around 23/24 years back. Tehsildar Billawar passed the impugned order without putting the petitioner to notice and without providing adequate opportunity of being heard. The mode for service of the petitioner has not been adopted in its right perspective thereby putting him to condemned unheard. It was obligatory on part of the officers exercising quasi- judicial powers to complete the process of service & record finding after affording an opportunity of being heard. But in present case he has violated the rules of natural and fundamental Justice. The petitioner has placed reliance on some judgments wherein it has been observed that no order can be passed behind the back of a person adversely affecting him and such an order if passed is liable to be ignored being not binding on such a party as the same has been passed in violation of the principle natural justice.

file

The petitioner pleaded that he has not been given opportunity to offer equivalent area of land from out of his proprietary land or from out of the land which he may acquire or purchase for the purpose, in the same village as per the provision given in Section 133 (2) of Land revenue Act, 1939. He is willing and ready to offer equivalent proprietary land in exchange to the state land under his possession in the Village Machedi. The petitioner has alleged that no enquiry or demarcation of the land has been made so far and without doing so no order can be passed under law. The petitioner prayed that the revision petition may be allowed and the order impugned be set aside.

Perusal of order sheet reveals that on 26/02/2020 Ld. Counsel for the petitioner while arguing the matter has stressed on the provision of exchange of land under Section 133 of Land Revenue Act and this aspect of the matter is required to be considered before proceeding against the petitioner. Thereafter, no body caused appearance on behalf of the petitioner and the matter is being shuttled from one hearing to another without any tangible result. Therefore, this case being revision is taken up for disposal on merits under law.

I have examined the case file and the record placed on it from which it is inferred that the Tehsildar has time and again served the summons including *DO-PARTA* upon the petitioner herein and when he did not cause appearance, Tehsildar has passed order under Section 133 of Land Revenue Act. But the petitioner has alleged that he has not been given due opportunity of being heard, which needs to be taken cognizance of by the Tehsildar.

In view of what has been discussed the present revision petition is disposed off with a direction to the Tehsildar Lohai Malhar to provide an opportunity of being heard to the petitioner & pass appropriate order strictly in terms of law governing the subject.

The stay granted by this Court, if any, shall stand vacated. The case file of this court be consigned to records after due completion.

Announced
08/07/2021


(Pawan Kumar Sharma) KAS
Additional Commissioner, Jammu
[with the powers of Divisional Commissioner]