



In the Court of Additional Commissioner, Jammu
(With the powers of Divisional Commissioner)
(Rail Head Complex, Jammu)

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Date of Institution
02.02.2023

Date of Decision
03.02.2023

File No
LRA/000000445/2023

1. Ayub Ahmed
 2. Gulzar Ahmed
 3. Asif Ahmed
- All sons of Karam Din R/o Village Latti, Tehsil Latti District Udhampur

....Petitioners

Versus

1. Manzoor Ahmed S/o Abdullah
2. Abdul Gafoor
3. Abul Rouf
4. Mohd Riaz
All sons of Mohd Irshad
5. Mohd Farooq
6. Ghulam Hussain
7. Mohd Gulzar
All sons of Feroz Din
All residents of Latti, Tehsil Latti District Udhampur
8. Tehsildar Latti, Udhampur
9. Patwari Halqa Latti, Tehsil Latti, District Udhampur

.....Respondents

In the matter of:- Revision petition against the order of Additional Deputy Commissioner in exercise of powers of Commissioner Agrarian Reforms Udhampur while entertaining appeal directly without not having been presented before the Deputy Commissioner District Collector Udhampur against the order of Tehsildar Latti passed on mutation No.1343 of Village Latti in respect of Shamlat Deh land not attracted by the provisions of Agrarian Reforms Act has been decided.
Prayer for setting aside the same as it being without jurisdiction and without application of judicial mind, rules and regulations on the subject matter.

ORDER

The present revision petition has been transferred to this court by the Learned Divisional Commissioner, Jammu vide No. 801/Reader/DivCom/1098-99 dated 01.02.2023. Ld. Counsel for the petitioners appeared and stated that the order dated 30.11.2022 passed by Additional Deputy Commissioners with the powers of Commissioner Agrarian Reforms, Udhampur whereby Additional Deputy Commissioner, Udhampur has set aside the mutation No. 1343 dated 04.09.2021 attested by Tehsildar Latti in respect of Shamlat Deh land entertaining the appeal directly without being presented before Deputy Commissioner (District Collector), Udhampur is without justification and application of judicial mind and prayed for setting aside the same.

When pointed out that the impugned order by the Additional Deputy Commissioner, Udhampur dated 30.11.2022 wherein mutation No. 1343 dated

Sd/-

04.09.2021 attested by Tehsildar Latti has been set aside with the direction to Tehsildar Latti to implement the order passed by the court of Ld. Divisional Commissioner, Jammu in letter and spirit, the Ld. Counsel stated that he has no objection with regard to the order passed by the Additional Deputy Commissioner, Udhampur but he is aggrieved of the manner in which implementation of the order is being done by the Tehsildar/subordinate revenue field staff. He further stated that he will be satisfied if the direction is made to the Tehsildar concerned for proceeding strictly in terms of the order of the Ld. Divisional Commissioner, Jammu dated 30.06.2001 wherein it has been held

"... that the mutation No. 104 dated 27.11.2009 Bk was incorrectly entered to the extent of land falling under Kh. No. 1363/789 measuring 11 Kanals 01 Marlas therefore, this land is Shamlat land. Karam Din S/o Abdullah who is an owner of land in the village has a share in the shamlat land in the village. However, his share in the shamlat land is to be determined under Boon No. 4 and 5 of Alian No. 17. He cannot claim suo moto any quantum of land as his share. Tehsildar, Ramnagar should therefore workout the share of Karam Din in the shamlat land under rule invogue for this purpose and evict him from whichever land he has found to be occupying in excess of his share, if any..." He further

submitted that possession of petitioners may not be disturbed without determining his share and eviction of land, if any, in excess of share of the father of petitioners shall be carried out only after determining the share of the petitioners/father of the petitioners. He further pleaded that share of occupants of shamlat land may be determined and thereafter the eviction from the land in excess of the shares may be carried out.

I have gone through the record placed on the file as well as the oral submissions made by the Ld. Counsel for the petitioners. It has been observed that the order passed by Additional Deputy Commissioner, Udhampur is in accordance with the earlier order of the court of Ld. Divisional Commissioner, Jammu and as such needs no interference. Further, Tehsildar concerned shall carry out the proceedings of eviction from the land in excess of the share of the petitioners/occupants in the shamlat land strictly in accordance with the order of the Ld. Divisional Commissioner, Jammu after determining the share strictly as per law governing the subject. The case file be consigned to records after due completion. Copy of the order shall go to Tehsildar concerned for necessary action.

Announced
03.02.2023

Sd/-

Pawan Kumar Sharma, JKAS
Additional Commissioner, Jammu
[with the powers of Divisional Commissioner]

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