



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

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File No
LRA/000000001/2019

Date of Institution
22.07.2019

Date of Decision
09.11.2023

Om Parkash S/o late Sh. Mangu Ram R/o village Alora Tehsil Mandal District Jammu

.... Petitioner

Versus

1. Gopal Dass
2. Chander Mani, sons of late Krishan Dass (Sadhu Bairagi), residents of village Alora Tehsil Mandal District Jammu.
3. The Tehsildar Mandal District Jammu

.... Respondents

IN THE MATTER OF:-

Revision petition against the ex-parte impugned order dated 15.11.2018 passed by the respondent no. 3 on mutation no. 348 of village Alora Tehsil Mandal District Jammu by virtue of which land measuring 19 KI-02 MI has been mutated in the name of private respondents.

Prayer for setting aside the same.

ORDER

The present revision petition filed against the order dated 15.11.2018 passed by respondent no. 3 on mutation no. 348 of village Alora, Tehsil Mandal District Jammu came up for hearing on 09.11.2023. Petitioner present in person. Ld. Counsel for the private respondents present. ARA appeared on behalf of official respondent. Ld. Counsel for the private respondents stated that the present petition is not maintainable in view of the Section 15 of the Code of Civil Procedure 1908 as well as the Circular instructions of Ld. Financial Commissioner, Rev, J&K dated 05.09.2022. He further stated that an appeal against the same mutation i.e. Mutation no. 348 dated 15.11.2018 of village Alora Tehsil Mandal District Jammu is pending before Collector (Regional Director Survey and Land Records), Jammu and the matter has been listed on 18.11.2023. He requested that the present petition may be transferred to the lower forum already hearing same matter by treating the present revision petition as appeal.

As per the subject matter of petition, the mutation attested by Tehsildar, Mandal dated 15.11.2018 has been directly challenged before this court without availing the remedy of appeal. Worthy Financial Commissioner, Revenue, J&K vide circular No. 667/FC-AP dated 05.09.2022 has directed all the revenue courts to take note of the following instructions:-

".....that the orders of Revenue Officers like Tehsildars/Naib Tehsildars, which otherwise are appealable before the Collectors concerned, are directly being challenged by way of revision petitions before the Court of Financial Commissioner (Revenue) as well as Divisional Commissioners / Commissioner Survey & Land Records, without availing the remedy of appeal. Similarly, under Agrarian Reforms Act, Additional Deputy Commissioners have been vested with the powers of Commissioner Agrarian Reforms within their respective Districts for hearing appeals against the orders of Collectors or Revenue Officers of rank lower than that of Collector, but instead of approaching the said forum, the appeals are directly preferred before this Court. This not only over-burdens the Revisional Courts but also causes inconvenience to the litigants, especially those belonging to far-flung districts


Additional Commissioner
JAMMU

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apart from legal ramifications of forum hunting, reduction of forums provided by the statute among other things. In this regard, the Hon'ble High Court in LPA No. 193/2019 Dated 10.02.2020 titled "Abdul Hamid and Ors Versus Divisional Commissioner Jammu and Ors, has held as under:-

"The matter needs to be examined from another angle, that is to say that, if any party as per his choice is left open to avail the remedy of appeal or revision, same may result in forum hunting. Against the same order the aggrieved party may choose a forum more suitable to him. This cannot be left to the parties aggrieved. A definite system has to be in place which is well defined and applicable to one and all, not leaving it to the option of the party concerned. This has serious ramification even on the opposite party as his remedy to appeal against the order passed by the appellate authority in case an order goes against him is taken away, if at the very first instance revisional jurisdiction is invoked by the opposite party."

The Hon'ble High Court in the above said judgement has also held as under:-

"Before parting with this case, we deem it appropriate to direct that, to avoid generation of unnecessary litigation and forum hunting by the parties, all the authorities under different statutes in the state, who pass the quasi-judicial order or even administrative orders against which a statutory remedy is provided under the applicable law and a period of limitation also prescribed, shall mention on the preface of the order itself about the authority before whom the order can be challenged in appeal or by way of any other remedy and also the period of limitation for the purpose. As there is a widespread practice prevalent here in the Union Territory amongst officers to exercise powers, which are not vested in them, it shall also be mandatory for them to specify in the order, the provisions of the relevant statutes/rules under which the order has been passed."

In view of the above, the present petition is transferred to the court of Collector (Regional Director, Survey and Land Records), Jammu who shall examine the matter & conduct the proceedings strictly in terms of law governing the subject by treating this petition as **appeal**. The original file is transferred to the court of Collector (Regional Director, Survey and Land Records), Jammu for further proceedings. The parties shall appear before the court of Collector (Regional Director, Survey and Land Records), Jammu on 18.11.2023.

Announced
09.11.2023

Sd/-
(Pawan Kumar Sharma) JKAS
Additional Commissioner, Jammu
[with the powers of Divisional Commissioner]

g/c 22/5/2023

[Signature]
Reader to
Additional Commissioner
Jammu