



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

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File No
LRA/000000501/2023

Date of Institution
11.11.2023.

Date of Decision
11.11.2023

Datt Pal S/o Late Sh. Baldev Raj R/o Chak Manga, Gujran, Tehsil and District Samba

.... Petitioner

Versus

1. The Deputy Commissioner, Samba
2. The Additional Deputy Commissioner, Samba
3. The Collector Land Acquisition, Samba
4. Tehsildar, Samba
5. Kailasho Devi W/o Late Baldev Raj R/o Village Mandetra, Tehsil and District Samba
6. Fateh Lal S/o Netar Ram R/o Village Chak Manga, Samba.

.... Respondents

IN THE MATTER OF:- Revision petition against the mutation bearing no. 195 dated 23.03.2006 attested by Tehsildar Samba with respect to land of the petitioner comprising under Khasra No. 339, 319 and 63 (new), Khasra No. 54, 51, 55, 118, 120, 121 and 62 (old) situated at Village Patwar Halqa Chak Manga Gujran, Tehsil and District Samba by virtue of which the land originally allotted to the petitioner's father was illegally mutated in the name of the respondent no. 6 on the basis of the fraud committed by the respondent no. 5 by hatching a conspiracy with the official respondents.

Revision petition against the entry made in the revenue record in Rabi 2002 with respect to the land comprising under Khasra No. 62 min measuring 10 kanal illegally recorded in the name of the respondent no. 5 pretending her to be the wife of Baldev Raj, the petitioner's father; Prayer for setting aside the said entry and further direct the official respondents to record the entry in the name of the petitioner

Or

Any other relief which this Hon'ble Court may deem fit and proper and may also be granted in favour of the petitioner.

ORDER

The present revision petition filed against the mutation no. 195 dated 23.03.2006 attested by Tehsildar, Samba came up for hearing on 11.11.2023. Ld. Counsel for the petitioner appeared and argued the matter.

As per the subject matter of petition, the mutation attested by Tehsildar, Samba dated 23.03.2006 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


Additional Commissioner
JAMMU

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 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."

When the Ld. Counsel for petitioner was apprised about the above cited circular, he requested that the present petition may be treated as appeal and transferred to the competent forum below.

In view of the above, the present petition is transferred to the court of Additional Deputy Commissioner, Samba 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 Additional Deputy Commissioner, Samba for further proceedings. On the request of the Ld. Counsel for the petitioner, it is ordered that status quo shall be maintained on spot till the file is remitted to the court of Additional Deputy Commissioner, Samba i.e. till 15.12.2023 only and thereafter the court below may pass appropriate order. The parties shall appear before the court of Additional Deputy Commissioner, Samba on 15.12.2023.

Announced
11.11.2023

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

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