



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

(0191-2478991, 2478999, Fax-2478997, e-mail: divcomjammu@gmail.com)

<u>File No</u>	<u>Date of Institution</u>	<u>Date of Decision</u>
LRA/0000000153/2021	27.10.2021	13.09.2022

Ashwani Kumar a/a 53 years S/o Lt. Sh. Girdhari Lal R/o Village Dhangroli Tehsil Hiranagar

....Petitioner

Versus

1. Subash Chander a/a 69 years S/o Lt. Sh. Girdhari Lal R/o Village Dhangroli Tehsil Hiranagar
2. Ganga Prasad a/a 73 years S/o Lt. Girdhari Lal R/o Sec no. 2 near park Roop Nagar Jammu
3. Rakesh Kumar a/a 58 years S/o Lt. Sh. Girdhari Lal presently posted as Head Constable JK Prisoner Kot Bhalwal Jail Jammu &
4. Suresh Kumar a/a 55 years S/o Lt. Sh. Girdhari Lal R/o Shiva Nagar Kathua.

....Respondents

In the matter of :-

Revision petition against the order allegedly dated 15.04.2021 passed by Sub-Divisional Magistrate Hiranagar whereby he rejected the appeal filed by the petitioner against the order dtd: 18.02.2019 passed by Tehsildar Assistant Collector 1st Class Hiranagar to dismantle the construction i.e. shop, tin shed, iron gate and foundation laid down for construction of another shop by the petitioner in some portion of land comprised of khasra no. 40 measuring 5 Marlas situated at village Dhangroli Tehsil Hiranagar District Kathua.

Prayer for setting aside the above said orders dtd: 15.04.2021 and 18.02.2019 same.

ORDER

The present petition has been filed against the order dated 15.04.2021 passed by Sub-Divisional Magistrate, Hiranagar whereby he rejected the appeal filed by the petitioner against the order dated 18.02.2019 passed by Tehsildar (Assistant Collector 1st Class), Hiranagar and for setting aside the above said orders. Ld. Counsel for the petitioner present. Ld. Counsel for the respondents also present. Arguments heard from both the counsels.

It has been observed that the petitioner has challenged order of Tehsildar, Majalta directly before this court without availing the remedy of appeal. The 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


Additional Commissioner
JAMMU

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 informed about above circular instructions of Ld. Financial Commissioner (Revenue), she requested that the instant revision petition may be treated as appeal and the same may be transferred to the forum competent to adjudicate the same.

In view of the above, the request of Ld. Counsel for treating the present petition as appeal is accepted and the same is transferred to the court of Deputy Commissioner, Kathua who shall examine the matter & conduct the proceedings strictly in terms of law governing the subject. The original file is remitted to the court of Deputy Commissioner, Kathua for further proceedings. The petitioner is directed to appear before the court below on 13.10.2023.

Announced
13.09.2023

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

PLC website

[Signature]
Reader to
Additional Commissioner
Jammu