



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

Raj Kumar, Age 49 years S/o Sh. Ram Chand R/o Garnari Amala, Tehsil Marheen,
District Kathua

....Petitioner

Versus

1. Sub-Divisional Magistrate (SDM), Hiranagar, District Kathua
2. Darshana Devi W/o Bishamber R/o Magtian Tehsil Marheen District Kathua

....Respondents

In the matter of :- Revision petition against the order no. SDM/H/2021-22/3072 dated 17.03.2022 passed by the Respondent No. 1 thereby setting aside its own earlier order dated: 17.01.2022 in most illegal, arbitrary and unjustified manner in contravention to the provisions of Land Revenue Act and Rules appurtenant thereto and for setting aside the same.

Any other relief which this Hon'ble Court may deems fit and proper in the interest of justice.

ORDER

The present petition has been filed against the order No. SDM/H/2021-22/3072 dated 17.03.2022 passed by Respondent No. 1 whereby he has set aside own earlier order dated 17.01.2022 in contravention to the provisions of Land Revenue Act and Rules with request for setting aside the same. Ld. Counsel for the petitioner present. ARA appeared on behalf of official respondent. Advocate Mandeep Singh vice appeared on behalf of Ld. Counsel for the private respondent No. 2. Arguments heard from both sides.

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 said forum, the appeals are directly preferred before this Court. This not only overburdens 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:-


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J&K

"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."

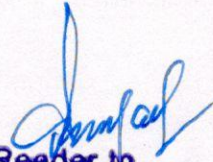
In referce to the above circular instructions of Ld. Financial Commissioner (Revenue), Ld. Counsel for petitioner requested that the instant revision petition may be treated as appeal and the same may be transferred to the forum competent to adjudicate the same.

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 expeditiously. The petitioner is directed to appear before the court below on 06.10.2023.

Announced
13.09.2023

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

g.c. website


Reader to
Additional Commissioner
Jammu