



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

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<u>File No.</u>	<u>Date of institution</u>	<u>Date of Decision</u>
74/Revision	25.10.2019	15.04.2021

1. Central University of Jammu through its Registrar Raya Suchani (Bagla) District Samba

..... Petitioner

Versus

1. Upjeet Singh S/o Late Sh. Hanwant Singh R/o Suchani Tehsil Vijaypur
2. Deputy Commissioner Samba
3. Assistant Commissioner Revenue Samba
4. Sub Divisional Magistrate, Vijaypur

..... Respondents

In the matter of :-

Revision Petition against the order No. DCS/SQ/19-20/1449-50 dated 10/10/2019 passed by the respondent No. 2 against the petitioner, whereby the pathway (10 ft. in breadth) throughout the land of the petitioner to reach the land of the respondent No. 1 bearing Khasra No. 2527 of Village Bagla without affording any opportunity of being heard to the petitioner. Prayer for setting aside the same.

ORDER

This revision petition was filed before the Ld. Divisional Commissioner, Jammu which was transferred to this Court for disposal under law. The brief facts of the case are that Sh. Upjeet Singh, Respondent No. 1 herein moved an application before Deputy Commissioner Samba praying therein that his proprietary land bearing Khasra No. 2528 of Village Bagla stands acquired for establishment of Central University and adjacent to the said land the petitioner has another piece of land comprising Khasra No. 2527 of Village Bagla which has not been acquired by the Central University. Respondent no. 1 has further stated that due to acquisition of land comprised Khasra No. 2528, his access has been curtailed to reach to the land comprising Khasra No. 2527 to carry out his activity in the said land. As a result of this the respondent No. 1 herein has no other pathway to approach his private / proprietary land and the same has become inaccessible. Deputy Commissioner, Samba in an interim order allowed a temporary pathway (10 ft. in width) throughout acquired land to reach to his own land bearing Khasra No. 2527 of Village Bagla.

Aggrieved of this order, Central University of Jammu through its Registrar filed the present revision petition against order No. DCS/SQ/19-20/1149-50 dated 10/10/2019 on the following grounds:-


1. That respondent No. 1 herein being an influential person of the said area managed to get the order from respondent No. 2 for using the University land as a pathway without any right, title or interest over the same. The order has been passed without affording any opportunity of being heard to the petitioner herein.

2. That under the garb of the order impugned dated 10/10/2019 he came at the site on 18/10/2019 alongwith JCB and started digging the land and made passage approximately 05 metres & when the petitioner came to know about this activity rushed on spot and asked to stop the digging the University land but he did not stop. The respondent No.1 has no right, title or interest over the university land.
3. That the order impugned has been passed in a haste manner without verifying the facts and without providing opportunity of being heard to the petitioner. This would cause hinderance to the Educational & Curicullum activities of the university, if allowed.

Ld. Counsels of both the sides put forth detailed arguments. Ld. Counsel for the petitioner stated that the land has been acquired by the Govt for establishment of the University and the University has no role to part with University land for any other purpose whatsoever. However, the Govt is competent to acquire or denotify any land at any stage. The Ld. Counsel for the respondent No. 1 pleaded that there are only two options to resolve the issue i.e. the remaining land comprising Khasra No. 2527 may be acquired by the University in *toto*, or the University may exchange the land in lieu of the land of the pathway for giving access to the land in question belonging to the respondent No.1.

From above, it has been observed that the order passed by the Deputy Commissioner is an interlocutory order against which no revision lies but at the same time it is true that before passing the said order Deputy Commissioner Samba has not heard the University in this regard. It is also observed that at time of the acquisition of the land the authorities should have considered this important aspect of the matter with regard to easementary rights, and the land of the respondent No. 1 was either to be acquired or provision would have been kept for access to the land for cultivation or other activities on the land of the respondent No. 1. Therefore, the revision petition being premature is accordingly dismissed. The Deputy Commissioner, Samba shall proceed further in the matter on the file wherein interim order was issued and pass final order after providing reasonable oppurtunity of being heard to both sides. A copy of the order be sent to Deputy Commissioner, Samba for further necessary action and the case file of this court be consigned to records after due completion.

Announced
15/04/2021


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

9/c website
A.S.