



In the Court of Additional Commissioner, Jammu
(With the powers of Divisional Commissioner)
(Rail Head Complex, Jammu)
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File No
LRA/000000094/2018

Date of Institution
06.04.2018

Date of Decision
22.06.2023

1. Dina Nath S/o Late Magar Ram
2. Paras Ram S/o Sant Ram
3. Raj Kumari D/o Late Mangat Ram all R/o Rajinder Pura Baguna Tehsil Vijaypur District Samba.

....Appellants

Versus

1. Tehsildar Vijaypur
2. Rameshwar Singh S/o Randhir Singh R/o Bagla Morh Suchani Tehsil Vijaypur District Samba.

....Respondents

In the matter of :- Appeal against the mutation No. 1102 dated 06.04.2015 attested by the respondent No. 1 in favour of respondent No. 2 of landed property bearing Khasra No. 111, 112, 112 min, 114, 115, 116, 117, 119, 125, 129 min situated at village Rajinder Pura Baguna and prayer for setting aside the same.

ORDER

The present appeal has been filed against the mutation No. 1102 dated 06.04.2015 attested by the respondent No. 1 in favour of respondent No. 2 of landed property bearing Khasra No. 111, 112, 112 min, 114, 115, 116, 117, 119, 125, 129 min situated at village Rajinder Pura, Baguna. The main submissions made in the appeal are as under:-

1. That the appellant No. 1 is owner in possession of land bearing khasra No. 111 (9K 12M), 112 (4K), 117 (5K 2M), 219 (1K 3M), 220 (1K 15M), 223 (3K 5M), 125 (20K 5M), 114 (7M), 116 (6K 8M), 243 min (2K 16M), 256 min (3K 7M) situated at village Rajinder Pura Baguna.
2. That the appellant No. 1 has got the said land under the provisions of Agrarian Reforms Act, 1976 being tiller of original owner and mutation u/s 4 and 8 of Agrarian Reforms Act, 1976 vide mutation 693 u/s 4 and 719 u/s 8 of Agrarian Reforms Act was attested in favour of appellant No. 1 by the competent revenue authority.
3. That the khasra No. 114 (9K 7M) and khasra No. 116 (6K 8M), 125 (20K 5M) is State land which is also in possession of appellants and it is pertinent to mention here that

khasra No. 125 is a thangar and 5 marla is gair mumkin in the *kind* column but the predecessor-in-interest of the appellants after their great efforts converted the same into agricultural and the khasra No. 116 is a gair mumkin khad which is also very much evident from khasra girdawari but in the khast column, the name of the predecessor-in-interest of the appellants is recorded.

4. That the respondent No. 2 already in connivance with revenue agency manipulated girdawari in his name of land bearing khasra No. 111, 112, 117 alongwith some other khasra numbers but the appellants approached before Chief Minister Grievance Cell and the matter was transferred to Div. Com. Jammu and thereafter same was transferred to DC, Samba and after conducting of enquiry, ADC, Samba vide its order No. DCS/SG/13-14/1351-53 dated 05.05.2014 whereby the ADC directed the Tehsildar, Samba to correct the record and set aside the impugned girdawari which stand in the name of respondent No. 2 and same was corrected and entry to this fact is also reflected in copy of khasra girdawari.
5. That after correction of girdawari, manipulated a game plan with respondent No. 2 and attested the mutation of sehat kasht in favour of respondent No. 2 of land bearing khasra No. 111, 112, 112 min, 114, 115, 116, 117, 119, 125, 129 including the gair mumkin khad, thangar as well as gair mumkin banna. Moreover, the respondent No. 2 is neither owner nor in possession of any portion of land mentioned in the appeal and the mutation is against the provision of law and same is attested in violation of rules and regulation of Govt. and provisions of Agrarian Reforms vide mutation No. 1102 dated 06.04.2015.

Ld. Counsel appearing for respondent No. 2 has submitted the written arguments which are as under:-

1. That an application for Sehat Kasht (Correction of Girdawari) with respect to the Khasra no. 111, 111min, 112, 112min, 114, 115, 116, 117, 118, 119, 120, 125, 129, and 129min of Village Rajinder Pura filed by Rameshwar Singh S/o Sh. Randhir Singh R/o Village Suchani, P/o Rahya, Tehsil Vijaypur, District Samba, duly marked by Assistant Commissioner, Revenue, Samba on dated 10-05-2014.
2. That the same application was forwarded to Patwari Halqa and girdawar circle with direction to visit the spot and report.
3. That Patwari Halqa and girdawar circle submitted a factual detailed report dated 23-05-2014 along with copy of the Khasra Girdawari. They reported that the land in question has been fenced on spot and is under the physical possession of the applicant namely Rameshwar Singh who had cultivated the wheat. The field staff had enclosed the copies of the Electric Power connection, PHE Connection with report, as an evidence of the possession of the land of Rameshwar Singh.
4. That after the lapse of six months again spot verification was done on dated 06-04-2015 at Village Rajinderpura and after enquiry from both the parties and other villagers, the mutation of Sehat Girdawari vide mutation no. 1102 was attested as

per the Standing Order No; 23A of Section 29 and as per para 4 (i) Circular no. FC/S/Misc-1209/91 dated 12-12-1991 issued by Financial Commissioner, Jammu.

5. That the appellants after taking huge amount of money from the respondent No. 2 had executed the Agreement To Sell in his favour and handed over the possession of the above said land to the respondent no. 2 and mentioned in the Agreement to Sell.

Both the counsels argued the matter. After careful examination of the record placed on the file and hearing both the counsels, it has been observed that some of the land mutated vide Sehat Kasht mutation no. 1102 dated 06.04.2015 is recorded as State land in the ownership column and all the illegal entries in respect of the State land have been ordered to be expunged by the Revenue Department in compliance to the directions of the Hon'ble High Court of J&K. Also section 133 of the Land Revenue Act 1996 B.K does not permit any entry of the illegal occupants on State land. As per the pleadings of both the counsels some of the Khasra numbers involved in the Sehat Kasht mutation have been vested in the appellants in terms of Section 4 & 8 of the Agrarian Reforms Act 1976. This court lacks jurisdiction to adjudicate upon the matter under the Agrarian Reforms Act. As such the present appeal is partly accepted and the mutation no. 1102 dated 06.04.2015 is set aside to the extent of the illegal entries made in respect of the State land and such entries shall be deleted and the correction shall be made as - State land (in the ownership column) under the possession of State i.e. *Sarkar Maqbooza Sarkar*. As regard the correction of the Girdawari in respect of the land vested under the Agrarian Reforms Act, the petitioners are free to challenge the same before the competent forum, if they choose so. Moreover, the officers vested with the powers under Agrarian Reforms Act at the District level shall take cognizance of the matter. One copy of the order shall go to Tehsildar concerned for necessary action. Copy of the order shall also go to Additional Deputy Commissioner (Commissioner Agrarian Reforms) Samba and Collector Agrarian Reforms, Samba for necessary action as warranted under law. Status quo order if any passed by this court shall stand vacated. Case file be consigned to records after due completion.

Sd/-

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

Announced
22.06.2023

3/c website .

Jamal
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