



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

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File No
LRA/0000000143/2021

Date of Institution
16.09.2021

Date of Decision
23.11.2023

1. Sagar Singh
2. Attar Singh sons of Late Paras Ram R/o Khana Chargal Tehsil & District Jammu

Petitioners

VERSUS

1. Gopal Dass
2. Girdhari Lal
3. Som Dutt
4. Ram Paul
5. Kaushayala Devi
6. Krishna Devi
7. Shanty Devi
8. Lata Devi
9. Raj Kumari
- No. 1 to 4 are sons of Late Amar Nath No. 5 to 9 are daughters.
All residents of Khana Chargal Tehsil & District Jammu
10. Tehsildar Jammu

Respondents

IN THE MATTER OF:-

Revision against the mutation no. 611 dated 12.09.1963 which was attested in favour of father of respondents 1 to 9 namely Amar Nath by the respondent no. 10 (then Tehsildar Samba now Jammu) prayed for setting aside the same.

ORDER

The present revision petition filed against mutation No. 611 dated 12.09.1963 came up for hearing on 23.11.2023. Ld. Counsel for the petitioners present. Ld. Counsel for the private respondents also present. Advocate Sandeep Singh appeared and filed Vakalatnama and application under Order 1 Rule 10 CPC on behalf of Ranjeet Singh, Ravi Singh both sons of Rashpal Singh for impleadment as party in this case which is taken on record. Copy of the application supplied to the Ld. Counsel for the respondents.

As per the subject matter of the petition, mutation attested by Tehsildar has been challenged directly 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 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

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Jammu

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."

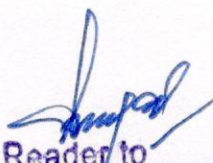
When the Ld. Counsels for parties were apprised about the above cited circular, they requested that the present petition may be treated as appeal and transferred to the competent forum below.

In view of the above, the present petition is transferred to the court of Additional Deputy Commissioner, Adm. (with the powers of Collector), Jammu 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, Adm. (with the powers of Collector), Jammu for further proceedings. The parties shall appear before the court of Additional Deputy Commissioner, Adm. (with the powers of Collector), Jammu on 28.12.2023.

Announced
23.11.2023

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

g/c website


Reader to
Additional Commissioner
Jammu