



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)

File No
102/Revision 2021-22

Date of Institution
02.03.2022

Date of Decision
30.03.2022

1. Ganesh Dutt S/o KrishanLal R/o Khojipur Tehsil Bishnah, District Jammu.
....Petitioner

Versus

1. Additional Deputy Commissioner Jammu (With the powers of Collector Jammu).
2. Tehsildar Bishnah.
3. Tilak Raj S/o Prabhu Dhayal R/o Khojipur Tehsil Bishnah, District Jammu at present Vijaypur Samba.

....Respondents

g/c website.

Reader to
Additional Commissioner
Jammu

IN THE MATTER OF:

Revision against the order of respondent no. 1 dated 18-02-2022 in File no. ADC(ADM)/Rdr/34 and order of respondent no. 2 dated 26-06-2021 in File no. TB/00/2021-22/258 which was passed against the petitioner and in favour of the respondent no. 3.

Prayer for setting aside the same orders which was passed against the petitioner and any other relief which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case may kindly be granted in favour of petitioner and against the respondents.

ORDER

The present revision petition came up for hearing on 30.03.2022. Ld counsel of both the parties alongwith parties present. The Ld. Counsel for the petitioner reiterated the memorandum of appeal and submitted, that the order passed by the respondent no. 2 in favour of respondent No. 1 is ex-parte order passed without providing the petitioner opportunity of being heard. That the provisions of Section 105 of Land Revenue Act are not attracted in the suit filed before Teshildar Bishnah as respondent no. 3 is out of possession for about 50 to 60 years. He never remained in the said village. That the respondent No. 3 has purchased the land in question through registered deed and as such he should file suit before the civil court for obtaining the possession of land. That the order passed by Additional Deputy Commissioner Jammu as well as Tehsildar are bad in eyes of law and are liable to be set aside.

Ld. Counsel for the respondent argued that the petitioner and respondent no. 3 are joint owners of the land for which mutation nos 104, 107 of sale deeds were attested in their names. Land falling under Khasra No. 816 (3k16m), 824 (3k10m), 816 (3k15m), 826 (3k10m) was purchased by Krishan Lal (father of appellant) & Tilak Raj (Respondent no.3) sons of Prabhu Dayal in equal shares. Since both the petitioner as well as respondent no. 3 are real brothers, so the cultivation of one co-sharer shall be treated as the cultivation of all the co-sharers and it is because of this reason only that the mutation u/s 4 and 8 attested in favour of father of appellant has been set aside. This fact can be ascertained **from the section 2 (12) (b) where in it has been mentioned that cultivation by any member of the family to which he belong shall be treated as personal and cultivation of that person.**

I have gone through the record placed in the file and accorded due consideration to the arguments put forth by both the counsels. The land in question has been purchased by the father of the appellant and Tilak Raj (respondent No. 3) and this fact has been admitted by both the parties. In view of the fact that the father of the petitioner and respondent No. 3 are brothers, there seems to be no infirmity in the order passed by the court below. As such the present petition is dismissed with the direction to the Tehsildar concerned to proceed in the matter in terms of law governing the subject after hearing both the parties. The interim/stay order issued by this court, if any, shall stand vacated. One copy of the order shall go to Tehsildar Bishnah for necessary action. The case file be consigned to records after due completion.

Announced
30.03.2022

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