

**Before Shaleen Kabra, IAS Financial Commissioner (Revenue)/
Commissioner Agrarian Reforms, J&K.**

File No.

1052/FC-AP

Date of Institution

18.01.2021

Date of Decision

01-6-2022

In case titled:

Sham Lal S/o Bishan Dass, R/o Seohara Tehsil and District Jammu.

(...Petitioner)

Versus

1. Darshan Lal
2. Rishi Kumar
3. Rajinder Kumar
All sons of Late Sh. Tara Chand
4. Durga Dass deceased's legal heirs (the sons) namely;
 - i. Deepak Kumar
 - ii. Vikas Kumar
 - iii. Himmat Kumar
5. Satpal S/o Thoru Ram
6. Hans Raj S/o Ranju
7. Prem Nath S/o Sardari Lal
8. Romesh Chander S/o Girdhari Lal
All residents of Seohara, Tehsil & District Jammu.
9. Tehsildar Settlement Jammu
10. Regional Director, Survey and Land Records (Ex-Officio Settlement Officer), Jammu.
11. Regional Director, Survey and Land Records (Ex-Officio) Settlement Commissioner), Revenue Department J&K Jammu.

(Respondents)

In the matter of:

Revision petition against the order of Commissioner Survey and Land Records (Ex-Officio) Settlement Commissioner) Revenue Department J&K dated 12.11.2020, whereby the revision filed by the petitioner has been dismissed.

Present:

1. Advocate Hakumat Singh for petitioner.
2. Advocate Roop Lal for respondents.

ORDER

1. A series of litigations have taken place between the parties herein over a piece of land measuring 02K-03M under Khasra No 376/149 of village Sohara Tehsil Jammu. The parties to the dispute are co-sharers of the above said land but the petitioner herein laying exclusive claim to the said land got the same recorded in his name in Khasra girdawari with effect from Kharief 2010 through Sehat Indraj Girdawari mutation no. 448 dated 11.02.2011. The respondents herein challenged this mutation by way of an appeal before the Settlement Officer Jammu who vide order dated 11.05.2013 set aside the mutation and remanded the matter to the Tehsildar concerned for a denovo enquiry, pursuant to which

Tehsildar restored the position existing prior to mutation 448 through his orders dated 10.07.2013. The petitioner challenged this order of Tehsildar before Regional Director Survey & Land Records Jammu and thereafter before Commissioner Survey & Land Records, both of whom dismissed his plea vide orders dated 11.04.2015 and 12.11.2020 respectively. The order of Commissioner Survey & Land Records has been now challenged in the present revision petition.

2. The parties caused presence through their respective counsels and the matter was argued.
3. Ld. Counsel for the petitioner in his arguments pleaded that the land in question has been and continues to be in the cultivating possession of the petitioner but the girdawari entries being contrary to spot position were rightly corrected by the Tehsildar through mutation no. 448, which has been wrongly set aside and the Tehsildar to whom the matter was remanded, without hearing the petitioner passed order dated 10.07.2013 and restored the entries in the name of all the co-sharers. The Tehsildar is said to have recorded the statements of the parties, who were the relatives of the respondents and this order dated 10.07.2013 has been unlawfully upheld by the subsequent forums as well. It is also stated that the suit for injunction of the respondents was dismissed by the civil court, being not in possession and against which order an appeal has been preferred by the respondents.
4. Ld. Counsel for the respondent on the other hand pleaded, that the petitioner is not able to justify his claim over the entire land as only 10 Marla of land under the above said Khasra No. is recorded in his name, which entries have been reflected in the records on the basis of private partition having taken place long ago. The petitioner is said to have admitted the private partition before the civil court. It is also said that right from 1971 upto 2011, when the entry was made in the name of the petitioner, and even at present, everybody is in possession of his respective share.
5. The Mutation No. 448 dated 11.02.2011 has been attested in the name of the petitioner by deleting the names of other share holders from the tenancy column. Nothing is coming to fore from the perusal of the said mutation that the other shareholders (respondent herein) were associated with the mutation proceedings or even put to notice. On remand the petitioner has been associated with the proceedings and has caused his presence before the Tehsildar and as such is estopped to re-agitate that the mutation 448 has been wrongly set aside.
6. The Tehsildar vide order dated 10.07.2013, has enquired into the matter in presence of the parties as directed by the Appellate authority, recorded the statements of witnesses and held that the land in question has not been brought under cultivation for a considerable period of time and hence the question of "Kaasht" and change of Kaasht does not arise, which the Commissioner Survey and Land Records has also mentioned in the impugned order by mentioning the land in question as "Banjr" and "Khali" since decades in the respective girdawaries.

7. The shares of different shareholders are clearly mentioned in the tenancy column, and the petitioner has not been able to justify his claim over the whole quantum of land and thus the entries existing in the names of all the shareholders have been rightly restored by the Tehsildar vide order dated 10.07.2013 and by the subsequent forums as well.
8. Thus, for the aforementioned reasons, the present Revision petition being devoid of any merit is dismissed.
9. Interim Orders, if any, issued by this court are vacated. File to be consigned to records after due completion.

Announced

01-6-2022


Shaleen Kabra (IAS)
Financial Commissioner, Revenue
J&K