

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

**File No.**  
1095/FC-AP

**Date of Institution**  
12.11.2021

**Date of Decision**  
01-6-2022

**In case titled:**

Harminder Singh S/o Late S. Raja Singh R/o Tringle Batote, through his son Ravinder Singh (Attorney Holder)

**(...Petitioner)**

**Versus**

1. Divisional Commissioner Jammu
2. Deputy Commissioner Ramban
3. Tehsildar Ramban At present Tehsildar Batote
4. Ravinder Kishen Kitchlu S/o Late Jewan Krishen Kitchlu R/o Village Tringla P.O Batote Tehsil & District Ramban.

**(....Respondents)**

**In the matter of:** Revision petition against the impugned order dated 01.10.2021 passed in the File No. 15/ Revision 2014-15 dated of institution 28.05.2014 by the Respondent No. 1 court below without any application of mind and impugned order being perverse may kindly be set aside alongwith the order dated 09.05.2014 passed by the Ld. Tehsildar concerned in ex-parte proceedings and without according reasonable opportunity of being heard to the aggrieved / affected person.

**Present:**

1. Advocate Om Raj Gorkha for petitioner.
2. Respondent No. 4 in person.

**ORDER**

1. A quantum of land measuring 08 Kanal covered under Khasra No. 292/212/38 of estate Tringla Tehsil Batote came to be mutated in the name of the father of the petitioner herein through attestation of mutations 403 and 407 under section 4 and 8 respectively of the Agrarian Reforms Act, 1976 (herein after Act of 1976), The ex-owners preferred an appeal against the said mutations before Deputy Commissioner Doda who vide order dated 13.03.1995 set aside both the mutations and remanded the matter to Tehsildar for attestation of mutations afresh in presence of the parties and in accordance with law. This order of Deputy Commissioner was however, set aside by Special Tribunal vide order dated 19.09.1996, holding it without jurisdiction and matter referred to Director Land Records (with powers of Commissioner Agrarian Reforms), from where the matter came to be transferred to Additional Deputy Commissioner Ramban, after the latter was vested with the powers of Commissioner Agrarian Reforms and the mutations referred to above were set aside vide order dated 05.06.2002. This order of Additional Deputy Commissioner has been upheld by J&K Special Tribunal and also by the Hon'ble High Court vide orders dated

13.12.2012 and 15.05.2013 respectively. Hon'ble High Court vide order referred to above has directed the Tehsildar to settle the matter in accordance with the provisions of the Act of 1976 and the Rules of 1977. Tehsildar vide endorsement dated 09.05.2014 made on the application of respondent no. 4 herein directed Station House Officer Batote to restrain the non-applicant (petitioner herein) from interference with the disputed land till further orders. The petitioner, aggrieved of the direction of Tehsildar filed a Revision petition before the Divisional Commissioner Jammu, who vide order dated 10.10.2021 dismissed his petition by holding it not maintainable. The order of the Divisional Commissioner and the direction of the Tehsildar, mentioned herein above have been assailed in the present Revision petition.

2. The parties were summoned. The petitioner appeared through his counsel whereas respondent no. 4 attended in person and the matter was argued. Respondent No. 4 filed his written arguments as well.
3. Ld. Counsel for the petitioner in his arguments pleaded that the Tehsildar has passed the direction of restraint on the application of respondent no. 4 herein, who is not a party to the dispute and has no locus to approach the Tehsildar. The petitioner is said to be in continuous cultivating possession and the impugned direction has been passed at his back without any enquiry. It is also said that the petitioner had moved an application before the court below seeking transfer of the case from the court of Tehsildar but no orders have been passed on the said application.
4. Respondent No. 4 on the other hand in his arguments pleaded that the enquiry has been entrusted to the Tehsildar by the Hon'ble High Court, which is yet to be finalized and justifying his locus, it has been said that the Respondent no. 4 is one of the co-owners of the disputed land. It is also said that the petitioner's father being a POK Refugee, was allotted a different land having no concern with the land in dispute. The rejection of the claim of the petitioner as tenant of the land in question by successive forums has also been referred to. The contention of the petitioner that he was not heard by the Tehsildar is resisted by pleading that the petitioner was repeatedly summoned by the Tehsildar and his son namely Ravinder Singh, was present before the Tehsildar.
5. It is relevant to mention here that the Hon'ble High Court vide order referred to in the preceding paras has held as:-
  - i. *"In view of the conflicting and hazy factual scenario, it would become necessary to get the matter settled by the concerned Tehsildar in accordance with provisions of the Act of 1976 and the Rules of 1977".*
6. The Tehsildar therefore rightly has started a denovo enquiry but on one pretext or the other, the petitioner by approaching different forums is only trying to prolong the litigation. The claim of being in possession or not and the locus of the respondent no. 4, can only be deliberated upon, once the enquiry is finalized and any interim direction like the one under challenge in the present petition is only to preserve the lis and has nothing to do with the final outcome of

the case. The court below therefore rightly has rejected the petition of the petitioner. However, Tehsildar is required to associate all the necessary parties with the proceedings before coming to a conclusion. It is to place on record here that the order impugned passed by the Tehsildar is only an interlocutory order and as such no revision will be against such an order.

7. Thus, viewed in the context, the present Revision petition being devoid of any merit and having been filed against an interim order only is dismissed and the orders impugned are upheld. Tehsildar to expeditiously conclude the enquiry entrusted to him by the Hon'ble High Court as the same is pending for almost a decade now. Both the parties who were present here will now appear before Tehsildar on 10.06.2022 who shall not issue fresh summons as the parties have been informed for their appearance before Tehsildar on the above said date.
8. Interim orders, if any, issued by this court shall continue till the matter is heard by the Tehsildar. File to be consigned to records after due completion.

**Announced**

01-6-2022

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