

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

**File No.**

1012/FC-AP

**Date of Institution**

07.01.2020

**Date of Decision**

02.06.2022

**In case titled:**

Auqaf Islamia Jammu Through as Administrator 3<sup>rd</sup> Floor, Haj House Rail Head Complex, Jammu.

(...Petitioner)

Versus

Baba Sunderai Nath Mohtamim Shrine Baba Sidh Pargan Nath Bagh Jogian, Tehsil Bishnah, District Jammu.

(...Respondent)

**In the matter of:**

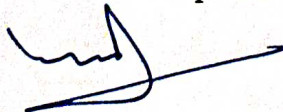
Revision petition against order dated 01.04.2017 passed by Ld. Collector / Deputy Commissioner Jammu whereby the entries made in the name of Mehkama Auqaf Islamia (petitioner herein Khasra No. 9, 15, 17, 19, 24, 25 and 107 of village Bagh Jogian, Tehsil Bishnah have been expunged illegally and without affording opportunity of hearing to the petitioner herein. Prayer for setting aside the said order dated 01.04.2017. Further, revision against illegal entries made in the name of respondent in Khasra No. 9, 15, 17, 19, 24, 25 and 107 of village Bagh Jogian, Tehsil Bishnah.

**Present:**

1. Advocate Ayjaz Lone for the petitioner.
2. Respondent in person.

**ORDER**

1. The land covered under Khasra No. 55 (old), 9, 15, 17, 19, 24 25, 107 (new) of village Bagh Jogian, Tehsil Bishnah came to be recorded by the patwari concerned in the name of petitioner, pursuant to circular directions of the Revenue Department dated 08.12.2005. Prior to the said change, the land was recorded in the name of the respondent. Aggrieved, of the expunging of his entry from the records the respondent approached the Deputy Commissioner concerned who vide order dated 03.04.2017, impugned in the present petition, set aside the entry recorded by the patwari holding it void abinitio.
2. The parties appeared before this court, the petitioner through his counsel and the respondent in person.



3. Ld. Counsel for the petitioner pleads that the patwari has made the entry only after complying with the circular directions referred to above but the Deputy Commissioner without holding any enquiry and without hearing the petitioner passed the impugned order. It is also said that the land in question in previous records was also recorded in the name of the petitioner, which entries have been changed from time to time which necessitated the Auqaf Affairs Department to notify these lands, and subsequently Revenue authorities have been directed time and again to record the entries in the name of auqaf.
4. Respondent despite knowledge did not turn up on the date fixed for arguments and the matter accordingly in his absence came to be reserved for orders.
5. It is seen from the records that land under Khasra No. 55 in jamabandi 2003-2004 (Svt) is recorded as "Shamilat Deh Hasab Hisas Jaddi" in the ownership column and in the possessory column, it is recorded as "Maqbooza Ahli Islam". In Jamabandi 1956-57, the same entry has been reflected, however, in Jamabandi 1966-67, the possessory column reflects the entry of "Bawa Mangal Nath, Chela Bawa Hans Nath Jogi" for land measuring 13K-3M and "Maqbooza Ahli Islam thorough Custodian Jammu" for land measuring 10K-3M. The entries, as is clear have changed from time to time and the matter as such is required to be enquired into. The land in question has been notified as Waqf property by the Auqaf Affairs Department vide SRO-95 dated 19.03.1981 and SRO-1 dated 02.01.1990. Subsequently, the Revenue Department vide circular dated 08.12.2005 has impressed upon all the Deputy Commissioners and other field agencies to take cognizance of Wakf properties and ensure entries in the Record of Rights without further delay.




6. It is relevant to mention here that para 3 (b) of Standing Order 23-A dealing with attestation of mutations clearly provides that the Jamabandi entries should not be varied in subsequent records without first obtaining orders for their variations, on mutations entered for this purpose. In the instant case, the entry of the Respondent as stated above is figuring in the Jamabandi but the patwari has merely made an entry in the Khasra Girdawari in Rabi 2009, which in fact has the impact of expunging the Jamabandi entries which cannot be done without obtaining orders on mutation.
7. Relevant to mention here that even the orders passed by various courts are not given effect to in the record directly but a mutation is entered to make an entry on the basis of the court order reflecting on the mutation No. of file, date of decision, brief names of parties, name and rank of officer and brief purport of order or decision (para 103 of Standing Order 23-A)
8. The patwari concerned, therefore, in deviation of the procedure has made the entry in the records, which rightly has been set aside by the Deputy Commissioner. There can be no denying that Principle of Natural Justice has to be followed and all that the Deputy Commissioner order does is that it refers the matter to the appropriate forum to hear all the parties, the order is in the nature of continuity of proceedings, being an order of remand. Hence, not hearing the petitioner does not make the order of the Deputy Commissioner, bad.
9. Thus, for the reasons mentioned herein above, the Revision petition being without any merit is dismissed. The Tehsildar to whom the matter has been remanded shall properly enquiry into the matter, hear all the relevant parties

and thereafter reflect the entries in favour of the rightful claimant in accordance with the law governing the subject.

10. Interim Orders, if any, issued are vacated. File to be consigned to records after due completion.

**Announced**

02-6-2022



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