

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

File No.
1053/FC-AP

Date of Institution
08.02.2021

Date of Decision
02.06.2022

In case titled:

1. Shamsher Singh Charak, S/o Late Sh. Kapoor Singh Charak, R/o Old Satwari, Jammu Cantt.
2. Joginder Singh Charak, S/o Late Sh. Kapoor Singh Charak, R/o Old Satwari, Jammu Cantt.
3. Pardeep Singh Charak, S/o Late Sh. Kapoor Singh Charak, R/o Old Satwari, Jammu Cantt.
4. Jagdish Singh Charak, S/o Late Sh. Kapoor Singh Charak, R/o Old Satwari, Jammu Cantt.
5. Joginder Singh Charak, S/o Late Sh. Puran Singh Charak, R/o Old Satwari, Jammu Cantt.
6. Bias Singh Charak, S/o Late Sh. Puran Singh Charak, R/o Old Satwari, Jammu Cantt.
7. Parshotam Singh Charak, S/o Late Sh. Puran Singh Charak, R/o Old Satwari, Jammu Cantt.
8. Vishal Singh Chara, S/o Late Sh. Ravi Singh Charak, R/o Old Satwari, Jammu Cantt.
9. Devinder Singh, S/o Late Sh. Sukh Dev Singh Charak, R/o Old Satwari, Jammu Cantt.
10. Labh Singh S/o Late Sh. Rattan Singh Charak, R/o Old Satwari, Jammu Cantt.
11. Sudershan Rajput, W/o Late Sh. Bikram Singh, R/o Old Satwari, Jammu Cantt.
12. Bimla Devi, W/o Late Sh. Govinder Singh, R/o Old Satwari, Jammu Cantt.

(...Petitioners)

Versus

1. Union Territory of Jammu and Kashmir through Commissioner / Secretary to Government, Revenue Department, Civil Secretariat, Jammu / Srinagar.
2. Special Tehsildar, Jammu.
3. Tehsildar Settlement, Bahu, Jammu.

(...Respondents)

In the matter of:

Revision Petition against Mutation No. 145 dated 04.06.1957 recorded by respondent no. 2 whereby the land falling in Khasra No. 21, 84, 135, 136, 158, 187, 212, 219, 220, 235, 322, 329, 331, 332, 333 and 30, total measuring 2278 kanals situated at village Channi Rama has been illegally and arbitrary escheated to State.

Present:

1. Advocate Faheem Shokat Butt for petitioner.
2. ARA on behalf of respondent.



ORDER

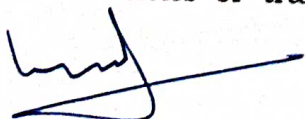
The petitioners are aggrieved of the orders passed on mutation no. 145 dated 04.06.1957, whereunder land covered under several Khasra Nos of estate Channi Rama has been escheated to State under the provisions of Big Landed Estates Abolition Act. The petitioner pleads that their predecessors- in - interest were the big landlords of the estate concerned, but the land in dispute has been wrongly escheated to state at their back and the same being non-agricultural / uncultivable i.e. "Banjar Kadeem" was exempted from the operation of the Act. It is also stated that the knowledge of the attestation of mutation was gained by them at a later stage and have sought condonation of delay on this ground.

2. Before proceeding to the merits of the case, it is required to address the issue of limitation as the order impugned has been put to challenge after almost 64 years.

3. Hon'ble Supreme court of India in the case Joint Collector Range Reddy District and Anr V/s D. Narsingh Rao and Ors, 2015 3 SCC 695, by referring to judgments in cases:-

- (i) State of Gujrat V/s Patil Raghav Natha;
- (ii) Mohammad Kavi Mohammad Amin V/s Fatambai Ibrahim;
- (iii) Santosh Kumar Shivgonda Patil V/s Balasaheb Tukaram Shevale;
- (iv) State of Punjab V/s Bhatinda District Co-operative Milk Producers Union Ltd;
- (v) Ibrahim Patnam Taluk Vyavsaya Coolie Sangham V/s K. Suresh Reddy;
- (vi) Dehri Rohtas Light Railway Co Ltd. V/s District Board Bhojpur;

has held that delayed exercise of revisional jurisdiction is frowned upon because of actions or transactions were to remain forever open to challenge, it will mean



avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of 3rd party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in right.

4. Hon'ble High Court of J&K too, in the case of Ayub Gojar and Ors V/s Financial Commissioner Revenue and Ors, also has held as under at para-13 of the judgment dated 14.03.2018:-

"If a statute does not prescribe the time limit for the exercise of revisional power, that will not give the authority of determining the matter, the teach to unsettle an order after a long time of 55 years. The power has to be exercised within a reasonable time as per the law laid down in (2007) 11 SCC 363 and ordinarily it can be exercised within a period of three years and in no case beyond a period of five years even when fraud is alleged. The creation of third party interest in the case, the passage of considerable time the date of the attestation of mutations, change of hands by subsequent bonafide transfers are the factors that have to be taken into consideration and had to given due weight while exercising the revisional powers".

5. The petitioners in their petition have not put forth any sufficient cause to justify condonation of such a huge delay. Even the application seeking condonation of delay has not been appended with the petition.
6. Thus, viewed in the context and also keeping in view the 3rd party interest that might have been created since much water has flown down the Ganges from the



date of attestation of mutation, the Revision petition is dismissed being hit by delay and latches.

7. File to be consigned to records after due completion.

Announced

02-6-2022



Shaleen Kabra IAS
Financial Commissioner Revenue
J&K