

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

File No.

1074/FC-AP

Date of Institution

06.09.2021

Date of Decision

08.06.2022

In case titled

1. Chain Singh
 2. Kulwant Singh
- Both sons of Ajeet Singh R/o Mehra Nagrota Tehsil and District Rajouri.
3. Kasturi Lal S/o Krishan Lal R/o Mehra Nagrota Tehsil and District Rajouri.
(...Petitioners)

Versus

1. State through Assistant Commissioner (Revenue), Rajouri
(...Respondent)
 2. Jatinder Singh
 3. Kulbir Singh
 4. Gulshan Kumar
 5. Manoj Kumar
- All sons of Late Mohinder Raj R/o Mehra Nagrota Tehsil and District Rajouri.
(...Proforma Respondents)

In the matter of: Revision petition against the order dated 07.08.2021 passed by learned Divisional Commissioner Jammu in file No. 14/Revision/2018-19 in case titled Chain Singh &Ors V/s State & Ors by virtue of which the revision petition filed by the petitioners has been dismissed.

Present:

1. Advocate K.S. Puri for petitioner.
2. Advocate R. K. Sharma for Proforma Respondents.
3. Nemo for State.

ORDER

1. Briefly summarized facts of the case are that the predecessors-in-interest of the private parties herein are said to have been conferred with status of tenants at will and subsequently with ownership rights under Govt orders LB-6C of 1958 and S-432 of 1966, through attestation of mutations 654, 655, 496 and 547 (wrongly referred to as 447 in the memo of petition), being occupants of state land on the crucial date of Khariief 1957-58. However, Assistant Commissioner

Revenue, Rajouri vide order dated 02.04.2018 taking suomoto cognizance has set aside the above said mutations, besides several other like mutations as well. The petitioners challenged this order of Assistant Commissioner Revenue before Divisional Commissioner Jammu, by way of a Revision petition and the latter also vide order dated 07.08.2021 (which is under challenge in the present petition) dismissed their petition.

2. The matter was argued by the Ld. Counsel for the private parties and none appeared on behalf of the state. The case file of the Divisional Commissioner was also been summoned and placed on records.
3. Ld. Counsel for the petitioners in his arguments pleaded that Assistant Commissioner Revenue condemned the petitioners unheard, in violation to the Principle of Natural Justice and also that Assistant Commissioner Revenue is not competent to set aside the mutations by exercising suomoto powers. It is also said that the mutations have been attested by the Tehsildar, who is an Assistant Collector of 1st Class and Assistant Commissioner Revenue too being an Assistant Collector of the same class cannot deliberate upon the mutations. The order of the court below is said to have been passed without returning any finding on these vital issues and having made reference of girdawari extracts of 1980 and 1982 only without perusing the earlier girdawari extracts and even the written arguments filed by the counsel for the petitioners before the said court.
4. Without going into the merits, it is noticed that the Assistant Commissioner Revenue while setting aside the mutations, has taken suo moto cognizance, a power that is not vested in him. Such powers are vested in the Financial Commissioner Revenue and the Divisional Commissioner only. The Assistant



Commissioner Revenue, on noticing the illegality, should have reported the matter to the competent authority with his recommendations. It is also noticed that no opportunity has been provided to the affected parties and more over the order setting aside the mutations have been passed by an officer of the same class.

5. The court below has made a number of pertinent observations that cast a doubt on the mutations, which necessitates taking suo moto cognizance of the matter. Therefore, while setting aside the order of the Divisional Commissioner and the Assistant Commissioner Revenue in view of the shortcomings in the basic order, the matter is remanded to District Collector (Deputy Commissioner) for disposal under law after hearing the affected parties. The petitioners, however, are required to justify the attestation of mutations in their favour at such a belated stage after the issuance of Govt orders LB6-C of 1958 and S-432 of 1966.
6. The parties shall appear before the Deputy Commissioner on 20.06.2022 and the interim orders, if any issued by this court shall continue till the matter is heard by the Deputy Commissioner.

Announced
08.06.2022


Shateen Kabra IAS
Financial Commissioner Revenue
J&K