

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

File No.  
1059-FC/AP

Date of Institution  
09.03.2021

Date of Decision  
09.06.2022

**In case titled:**

Mrs. Nirmal Kumari D/o Kaka Ram W/o Anant Ram R/o Sangrampur Tehsil Jammu  
(...Petitioner)

**Versus**

Ram lal S/o Sh. Bhagat Ram R/o Patnayaal Tehsil Marh District Jammu.

(...Respondent)

**In the matter of:** Revision against the order of Tehsildar Settlement, Jammu dated 11.07.2014 passed on mutation no. 60 whereby mutation of Sehat Andraz with regard to Land bearing Khasra No. 86 (old) 255 min (new) measuring 01 Kanal 16 Marlas situated at Patnayaal Tehsil Marh District Jammu whereby mutation of Sehat Andraz with regard to aforesaid land attested in favour of respondent, for setting aside the same.

**Present:**

1. Nemo.
2. Advocate Ashok Gupta for respondent.

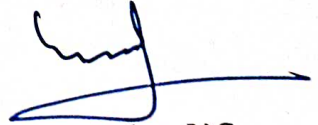
**ORDER**

1. A quantum of land measuring 01K-16M covered under Khasra No. 86 min (old), 255 (new) of village Patnayaal Tehsil Marh, District Jammu has been recorded in the "Kaasht" of the respondent herein through "Sehat Indraj Girdawari" mutation no. 60 dated 11.07.2014. The petitioner who along with her sister are recorded as owners of the said land, challenged the above said mutation by way of a Revision petition before the court of Divisional Commissioner Jammu, who vide reference in hand has recommended to set aside the mutation and to remand the matter to Tehsildar concerned for re-hearing, irrespective of the compromise arrived at between the parties.
2. After receipt of the reference of the court below, proceedings were initiated by this court but the petitioner along with her counsel absented herself on most of the occasions and the respondent along with his counsel caused his presence on the dates fixed for hearing.
3. The pleadings of the petitioner before the court below are that she continues to be in possession of the suit land and Tehsildar without providing her the opportunity of being heard attested the mutation in violation of the Principle of Natural Justice.
4. Ld. Counsel for the respondent on the other hand prayed for modification of the reference of court below to the extent the matter has been remanded to the Tehsildar for re-hearing as the matter has been amicably settled by the parties by way of a compromise which ought to have been accepted and the mutation attested in favour of the respondent confirmed.

5. It is seen from the records that the land under discussion is recorded in the ownership of the petitioner and her sister in equal shares and on the request of the respondent herein Tehsildar has recorded the name of the respondent in the possessory column through the impugned mutation. The petitioner has not been associated with the mutation proceedings and thus condemning an affected party unheard is clear violation of the Principle of Natural Justice.
6. The respondent as stated by him in the open court has purchased the land but instead of adopting a recognized mode of transfer, the recourse has been taken to "Sehat Indraj Girdawari" as a subterfuge for sale and an attempt to evade the stamp duty.
7. The legality or otherwise of the compromise referred to by the respondent counsel in his arguments cannot be gone into by this court as no compromise deed has been placed on record and this court also does not have any objection to the compromise if the same is in consonance with law.
8. The reference of the court below is accordingly accepted and the mutation referred to herein above is set aside. The matter as recommended is remanded to Tehsildar concerned for attestation of a fresh mutation in favour of the respondent provided a recognized mode of transfer like registered sale deed etc is resorted to by the respondent.
9. Before parting with this order, it is necessary to emphasize and issue directions in regard to an important aspect. The classes of mutations enumerated under para 19 of Standing Order 23-A does not contain any kind of mutations by the terminology of "Sehat Kasht", the kind of mutation mentioned therein is "Sehat Indraj". Sehat Kasht is wrongly being used interchangeably with the term "Sehat Indraj". Both "Sehat Indraj" / Sehat Kasht are frequently misused by Revenue field functionaries in changing the entries of tenancy / possessory column of Girdawari in violation of the provisions of Agrarian Reforms Act and to benefit the parties with the sole objective of evading the stamp duty and provisions of the Transfer of Property Act. Such practices also lead to unnecessary litigations between the parties. It is only when there is dispute between the parties that such irregularities come to light and also clutter the courts with litigation.
10. It is necessary to point out that as per para 100 of Standing Order 23-A (Record of mutations), "Sehat Indraj" changes include the following cases:
  - i. Correction of clerical errors, such as in the name, caste, tribe, residence or other particulars, which do not practically affect any right in any way;
  - ii. Entry of posthumous legitimate heir;
  - iii. Sehat Indraj due to changes in the boundary between adjoining fields as found on spot in comparison with the boundary shown in the previous map or due to difference of area owing to more correct measurements (Farqi-Paimaish).
  - iv. Even for changes at ( i & iii) above), no mutations are required to be entered in the register and the changes under item (i) above are to be made on "Farad Badr" as mentioned in para 3 (b) of the above said standing order.

11. Although changes in Girdawari are permissible as per Standing Order 22 and Rule 4 of Agrarian Reforms Act but it is an elaborate process that requires presence of parties and giving them opportunity of being heard, besides a detailed enquiry on spot. It is also noticed that the changes in most of the cases are made on a date not being a date of Girdawari which already stand notified for the whole Union Territory. No reason for making such changes in the girdawari at the later point of time is assigned while effecting such changes in the girdawari.
12. Earlier also, sensing the misuse of powers by the Revenue officers to change Girdawari entries of 1971, the Government, vide order 133-LB of 1989 dated 26.05.1989, conferred such powers only upon the Assistant Commissioner Revenue and that too to be exercised upto 30.09.1989.
13. This court, in exercise of its supervisory role, cannot remain a mute spectator of these malafide and illegal actions. It is, therefore, directed that:
- i. In the instant case, the Sub Divisional Magistrate concerned shall hold an enquiry and fix the responsibility for blatant violation of the Principle of Natural Justice and for apparent connivance of the Revenue officials involved in attesting the impugned mutation. In addition, the Sub Divisional Magistrate shall examine the records and bring to fore if similar mechanism has been adopted in the said Tehsil during the tenure of the attesting officer and the patwari concerned.
  - ii. In every Tehsil of the Union Territory, the Tehsildars shall specifically examine all such mutations of Sehat Indraj / Sehat Kasht, to begin with since 31.10.2019. Alongwith details of all such mutations, wherever irregularities or procedural deviations are observed with the sole motive of this mechanism being adopted as a subterfuge for sale, the recommendations be made through the Deputy Commissioner, concerned to the competent authorities for setting aside these mutations.
  - iii. A monthly report of these mutations entered or attested shall be submitted to the Deputy Commissioner, who shall get 100% check effected by assigning the task to officers available to him.
14. The Administrative Officer with Financial Commissioner Revenue, shall issue circular instructions to all concerned to desist from such practices, non adherence to which shall warrant disciplinary action against the delinquents as required under law.
15. Interim Orders, if any, issued by this court are vacated. File to be consigned to records after due completion.

**Announced**  
**09.06.2022**

  
Shaleen Kabra IAS  
Financial Commissioner Revenue  
J&K