

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

File No.

674/FC-ARC/AP

Date of Institution

13.12.2019

Date of Decision

25.05.2022

In the case titled:

Noor Mohd alias Noora S/o Deedar Baksh alias Dara, caste Malik, R/o Maidana, Tehsil Haveli, District Poonch **(...Applicant)**

Versus

1. Additional Deputy Commissioner, (With powers of Commissioner Agrarian Reforms) Poonch.
2. Noor Hussain S/o Bhadur, Caste Malik R/o Maidana, Tehsil Haveli, District Poonch. **(..Non-Appliants)**

In the matter of: Application for transfer of case of single appeal against mutation no 78 dated 15.01.1986 attested under section 4 of Agrarian Reforms Act and against mutation no. 89 dated 13.07.1986 under section 8 Agrarian Reforms Act in case titled Noor Hussain Versus Noor Mohd pending in the court of Appellate Authority, Additional Deputy Commissioner, Poonch to any other court of competent jurisdiction.

Present:

1. Advocate Rameshwar. P. Sharma & Associates for applicant.
2. Advocate Mohd Shabir for respondent No. 2.

File No.

681/FC-ARC/AP

Date of Institution

08.01.2020

Date of Decision

25.05.2022

In the contempt petition titled:

Noor Mohd alias Noora S/o Deedar Baksh alias Dara, caste Malik, R/o Maidana, Tehsil Haveli, District Poonch **(...Applicant)**

Versus

Mr. Malikzada Sheraz-Ul-Haq Additional Deputy Commissioner, Poonch.

(...Non-applicant)

In the matter of: Application for initiating contempt proceedings against the non-applicant for willful disobedience of the order of the Hon'ble Court dated 10.12.2019 whereby he was directed not to pass any order in the matter till next date of that is 08.01.2020 but he has decided the matter on 18.12.2019 despite receipt of the order on 14.12.2019.

Present: 1. Advocate Rameshwar. P. Sharma & Associates for applicant.
2. Advocate Mohd. Shabir for respondent No. 2

ORDER

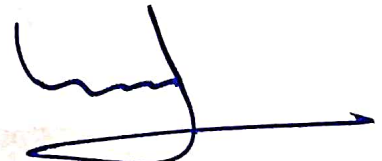
1. Applicant, herein, has filed this transfer application for transferring of appeal titled Noor Hussain V/s Noor Mohd pending in the court of Additional Deputy Commissioner, Poonch on the ground of biased attitude of the Presiding Officer.
2. After, entertaining this application, on 10.12.2019 the court below was directed not to pass any order in the matter.
3. However, on 18.12.2019 court below has decided the appeal, setting aside the mutations attested under sections 4 & 8 of Agrarian Reforms Act, 1976 on the ground that as per revenue record Khasra no. 153/150 measuring 05K-15M has been recorded as State land, as such, sections 4 & 8 of Agrarian Reforms Act, 1976 do not apply to this land and further remanded the matter back to Tehsildar Haveli for disposal under law.
4. Feeling aggrieved of the above said order, applicant herein, has filed application for initiating contempt proceedings against the Additional Deputy Commissioner, Poonch for wilful disobedience of the order dated 10.12.2019 passed by this court, claiming that despite receipt of the said order on

14.12.2019, the Additional Deputy Commissioner, Poonch proceeded to decide the matter on 18.12.2019.

5. Reply sought from the Additional Deputy Commissioner, Poonch stated that he received the order passed by this court on 19.12.2019. The same has been separately reported by the Deputy Commissioner, Poonch vide his report dated 19.04.2022.
6. From the above facts, it is apparent that when the court below passed the order dated 18.12.2019 in appeals pending before it, it was not aware of the Order of this court restraining him from passing any orders. Therefore, no contempt is made out against the Additional Deputy Commissioner, Poonch and hence the contempt proceedings are dropped. However, the order is without jurisdiction and therefore, set aside. Further, in view of the fact that the presiding officer stands transferred, the transfer application is disposed of with the directions that the Additional Deputy Commissioner, Poonch shall rehear and decide the issue afresh.
7. Status quo shall be maintained till presence of both the parties before Additional Deputy Commissioner, Poonch on 14.06.2022. No fresh summons shall be issued as both parties are present here. File be consigned to records after due completion.

Announced

25-5-2022



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