

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

**File No**

726/FC-AP

**Date of Institution**

15.10.2020

**Date of decision**

08.04.2022

**In the case of:**

Ghulam Mohammad Dar alias Ghulam Amin (aged 70 years)  
S/o Abdul Gani Dar R/o Arath Tehsil Narbal Dsistrict Budgam

**.....Petitioner**

**V/S**

1. Tehsildar Narbal of District Budgam
2. Deputy Commissioner, Budgam

**..... Official Respondents**

3. Kuldeep Kumar S/o Mohani Rani R/o Chanapora, Lal Nagar Srinagar. At present House No.190, Sector 2, Pamposh Colony, Janipur, Jammu.

**..... Private respondent**

**In the matter of:-**

Revision against the order dated 31.08.2020 passed by the  
Tehsildar Narbal of District Budgam

**Present:**

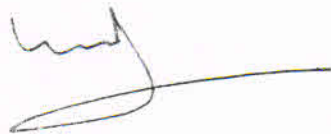
Advocate: Owais Geelani for petitioner

Advocate: Showkat Saleem for private respondent

**ORDER**

Tehsildar Narbal vide impugned order dated 31.08.2020 has directed Lambardar and Chowkidar of village Arath Tehsil Narbal to keep the migrant land measuring 5K-4M of estate Arath covered under survey Nos. 1579 min (03 K-18 M) 1580 min (17 M) and 1591/1 (09 M) in their superdari.

2. Aggrieved, the petitioner has assailed this order by way of present revision petition pleading therein that the father of the petitioner got the land in reference in lieu of exchange of his proprietary land covered under survey Nos. 1300 and 1304 with one Mohd Akbar Bhat and mother of the private



respondent herein in 1969 and since then he is in the cultivating possession of the same. It is also stated that in the year 2012-13, settlement operations of the concerned village were carried out and the land in question came to be recorded wrongly in the name of the mother of private respondent, who taking advantage of the said entry is now trying to dispossess the petitioner from the said landed property. The competence of Tehsildar to pass the order is also questioned by pleading that it is only District Magistrate who has competence to take such a cognizance.

3. Learned counsel for the private respondent on the other hand in his written arguments pleads that the revision petition is not maintainable and the impugned order after having been implemented on spot in the year 2020, the petitioner has again resorted to illegal encroachment on the migrant property in March 2021 in the garb of present revision petition rendering the impugned order infructuous.
4. It has been observed in the report dated 23.02.2021 of Additional Deputy Commissioner, Budgam addressed to Financial Commissioner Revenue, that "the applicant's father Gani Dar has exchanged disputed land with Mohni Rani bearing Khasra no. 1304 (3K-3M), 1307 (4K-17M) measuring 8 Kanals but has not been mentioned in the current records during the settlement process". The same is taken cognizance of by this Court by exercising Suo-moto Revisional Powers under sec. 15 of Land Revenue Act, and Deputy Commissioner accordingly shall initiate proceedings for correction of the records, if required, and submit the same to competent authority u/s 27 of Land Revenue Act for correction of the records.
5. The assertion made by Ld. Counsel for respondent no. 3 that the impugned order has virtually become infructuous as petitioner has repossessed the land after the same had been kept in the superdari of Lambardar and Chowkidar concerned, is taken serious note of and



appropriate action in this regard is required to be taken by the District Magistrate.

6. As provided in the Jammu and Kashmir Migrant Immovable Property (preservation, Protection and Restraint on Distress Sales) Act, 1997 (herein after Act of 1997), it is the District Magistrate who is the competent authority and also the custodian of Immovable Property belonging to migrant, falling within his territorial jurisdiction but in the instant case the order impugned though passed by Tehsildar is not a substantive order but only the custody of the land in dispute has been given to the Lambardar and Chowkidar on behalf of the District Magistrate. The averment of Ld. Counsel for the Appellant/Petitioner that Tehsildar has passed the impugned order without competence is thus of no relevance.
7. However, since the order impugned has been passed with regard to migrant property the Act of 1997 provides for an Appeal by any person aggrieved of an order under the said Act before Financial Commissioner Revenue. There is no provision in the Act referred to above, whereunder a Revision Petition can be filed before this forum and thus, as rightly pleaded by Ld. Counsel for respondent no.3, the Revision Petition is dismissed being non-maintainable.
8. Interim orders, if any, issued by this Court are vacated. A copy of this order be however, provided to Deputy Commissioner concerned for taking notice of the observations held at paras 4 and 5 supra.

**Announced**

08.04.2022

No:- 150/FC-AP

Dated:- 10.5.2022

Copy to the:-

1. District Magistrate Budgam for information and necessary action
2. Tehsildar Nambal for information & n/a.

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