

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

File No.  
1050/FC-AP

Date of Institution  
22.02.2021

Date of Decision  
30.03.2022

**Title of the Case:**

M/s Choudhary Power Projects Private Limited Through Director Choudhary Nagar  
Singh S/o Sh. Koula Ram R/o 3<sup>rd</sup> Floor, Section 1A Trikuta Nagar Jammu

(...Petitioner)

**Versus**

1. Deputy Commissioner, Ramban.
2. Assistant Commissioner Revenue Ramban.
3. Tehsildar Ramban.

(Respondents / Non - Petitioners)

**In the matter of:** Revision petition against the order No. AS/ADCOM/21/900-01 dated 18.02.2021 passed by the Additional Commissioner Jammu order No. 06-08/JK/TR dated 08.01.2021 and order No. 03/JK/TR dated 11.12.2020 and communication dated 17.09.2020 passed by the respondent no. 1 and 3 whereby the temporary batching plant established by the petitioner for widening of the four laning of National Highway from Ramban to Banihal Section has been seized.

**Present:**

1. Advocate Ajay Vaid and Gagan Kohli for petitioner.
2. Assistant Revenue Attorney with Divisional Commissioner on behalf of Respondents.

**ORDER**

1. Briefly stated facts of the case, as gathered from the records on file, are that the National Highways Authority of India allotted the project for four laning of Ramban to Banihal Section of NH-44 to Hindustan Construction Company

Limited in year 2016. The said construction company approached Deputy Commissioner Ramban for establishment of a batching plant on a patch of "Kahcharie land" measuring 05K-13M under Khasra No. 684 of estate Marog Tehsil Ramban, who vide order dated 18.04.2018 issued "No Objection Certificate" for establishment of the batching plant subject to payment of rent as per Government norms, referring the above said land as State land. The public project started for four laning of the National Highway and in year 2020, the balance work of the four laning has been sub contracted to the petitioner.

2. An application on behalf of residents of villages Seri / Marog came to be filed before Deputy Commissioner Ramban alleging encroachment of "Kahcharie land", which the Deputy Commissioner disposed of vide order dated 17.09.2020 directing Tehsildar concerned to proceed as per section 133(2)(a) of Land Revenue Act for eviction of the encroachment and illegal dumping of muck in Khasra No. 683 area measuring 21K-10M recorded as "Nallah" and in Khasra No. 684, land measuring 107K-15M recorded as "Mehfooz Kahcharaie". The Tehsildar after issuing notices to the General Manager of the Construction Company issued a final notice on 11.12.2020 to remove the stone crusher / hot mix plant and other machinery operating over the said land within a week's time failing which the said machinery will be seized. Thereafter, the Tehsildar vide communication dated 08.01.2021 addressed to Deputy Commissioner Ramban seized the machinery operating over the land referred to above.
3. Aggrieved of the orders of Tehsildar dated 08.01.2021 and 11.12.2020 referred to above, the petitioner preferred an appeal before the Divisional Commissioner Jammu, who transferred it to Addl. Commissioner (with powers of Divisional Commissioner) Jammu and the latter vide order dated 18.02.2021 referred the matter to Deputy Commissioner to proceed further in the matter and decide the same on merits. This order of Addl. Commissioner together with the orders dated 17.09.2020 of Deputy Commissioner and orders dated 08.01.2021 and 11.12.2020 of Tehsildar Ramban have been assailed in the present Revision Petition.



4. The petitioner in his petition pleads that the machinery seized by the Tehsildar was installed only after seeking NOC and permission from the competent authorities. It is also said that section 133(2)(a) has wrongly been made applicable to the case in hand as the land in question was not encroached by the petitioner but used only after proper permission. The petitioner further pleads that the project being of public utility, the order of Tehsildar is violative of the specific Relief Act, which clearly states that an injunction cannot be granted if it would impede or delay the progress or completion of any infrastructure project. The order of Addl. Commissioner is questioned by pleading that without setting aside the orders impugned, the matter has been remanded to Deputy Commissioner, an authority which has already given his observation and the said authority is likely to proceed in the same way, it has proceeded earlier.
5. After the presentation of the petition, the petitioner did not bother to cause his presence before this court and on this count, the petition deserved to be dismissed for non-prosecution but since a huge damage has been caused to the Kahcharie / state land measuring 129K-05M and otherwise also, it is desirable to decide the matter on merits rather to dismiss the petition in default.
6. The records from Deputy Commissioner Ramban alongwith a factual report was called for by this court which stand submitted and the same has been placed on record as well.
7. It is seen from the records that the construction company had approached the Deputy Commissioner Ramban for establishment of a batching plant over a piece of land measuring 5K-13M under Khasra No. 684 recorded as "Mehbooz Kahcharie" and the Deputy Commissioner vide order dated 18.04.2018 has issued NOC in favour of the said company subject to payment of rent. The said land has been misquoted as state land. Rather confining its activity to the said quantum of land, the construction company has brought the whole land, measuring 107K-15M under Khasra No. 684 recorded as "Kahcharie" and also

land measuring 21K-10M recorded as "Nallah" under Khasra No. 683, under its use by dumping muck, thus causing a huge damage to the said land.

8. The Tehsildar, after providing ample opportunities to the petitioner to remove the contravention but upon his failure to comply with the directions, was left with no option but to proceed in the matter, being empowered under law.
9. It is also seen from the records that the muck illegally dumped reportedly falls into river Chenab and in such a situation, the revenue authorities cannot be mute spectators but have to take cognizance, the way, the matter in hand has been dealt with.
10. The court below, thus rightly referred the matter to Deputy Commissioner and the petitioner can participate in the proceedings and put his stand before the said forum.
11. The revision petition, thus being devoid of any merit is dismissed and the orders impugned are upheld. It is further directed that Deputy Commissioner shall initiate proceedings of recovery of compensation from the erring construction company for causing damage to the Kahcheraie / State land and restore the said land to its original position.
12. Interim Orders, if any, issued by this court are vacated. File to be consigned to records after due completion.

Announced

30-3-2022



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