

Before the Court of Financial Commissioner (Rev), J&K, Jammu.

In the case of:

Mst Sara D/o Mehda Bhat R/o Tengpora Bypass, Srinagar.

.....(Petitioner).

V/s

1. Mohammad Abdullah Bhat S/o mahda Bhat
2. Abdul Rashid Bhat
3. Khursheed Ahmad Bhat
4. Fayaz Ahmad (sons)
5. Mst. Atiq
6. Mehmooda
7. Mst. Mumtaza Daughters of Late Abdul Gani Residents of Batpora Chadoora District Budgam

..... (Contesting Respondents)

8. Ghulam Mohammad Bhat
9. Ali Mohammad Bhat
10. Nazir Ahmad Bhat
11. Shah Mali Daughters of Mst. Rehti Residents of Batpora Chadoora, Budgam

..... (Proforma Respondents)

In the matter of :

Revision petition in terms of section 15 of Land Revenue Act against the order of SDM Chadoora dated 29.01.2021/30.01.2021 passed in appeal case titled Mst. Sara V/S Mohammad abdullah & Ors. and against order of mutating officer passed on mutation No. 826 of estate Budgam Batapora regarding inheritance of Late Mahda Bhat.

ORDER

06.04.2021:

- i) Presented. It is seen from the impugned order that the Court below has not gone to the merits of the case and has merely dismissed the appeal pending before it in the matter on the grounds of delay in filing the appeal and for non filing of Parat Sarkar copy of impugned order by the petitioner herein. The impugned order reveals that the presiding officer has passed the judgment in a hurry viz, for non filing of Part Sarkar of the impugned mutation by

the petitioner herein even though, it was also duty of Court below to summon the same.

- ii) In all such matters where dis-entitlement by mere mutation orders takes place, Courts need to be lenient and should be willing to go in to the merits of the case as has been held by Hon'ble Supreme Court in the case titled "Collector Land Acquisition Anantnag & Anr. V/S Mst. Katiji & Ors", the relevant para of which is reproduced as under:

"Refusing to condone delay can result in meritorious matter been thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned, the highest that can happen is that a cause would be decided on merits after hearing the parties".

*Similarly, in a case reported in AIR 1998 SCP 3222, it has been held **that the rules of limitation are not meant to destroy the rights of the parties but to see that parties do not resort to dilatory tactics".***

- iii) Moreover, as observed from the impugned order, there is no date of pronouncement mentioned therein.
- v) So, for what has been discussed above, the instant petition is accepted and the matter is remanded to SDM Chadoora for a fresh hearing in the light of the observations made in this order.

Sd/-

**Financial Commissioner (Rev)
J&K, Jammu.**

No. 631/Fc-AP

Dated:- 10.4.2021

Copy to SDM Chadoora for information and necessary action.


Reader to 10.4.21
Financial Commissioner
(Rev), J&K