

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

File No.
1017/FC-AP

Date of Institution
16.01.2020

Date of Decision
23-9-2021

In the case of :

1. Suram Singh S/o Chanchal Singh R/o Ward No. 49, Channi Rama, Jammu.

..... **Appellant.**

Versus

1. Tehsildar, Bahu
2. Dev Raj S/o Des Raj R/o H. No. 49, Sector 1, Nanak Nagar, Jammu

..... **Respondents.**

In the matter of:-

Appeal against the Order No. Teh-Bahu/OQ/2018-19/40-42 dated 06.04.2018 pertaining to land measuring 01 Kanal covered under survey No. 192(Old), 121 (New) of village Channi Rama, Tehsil Bahu.

ORDER

1. The present dispute concerns land measuring 01 Kanal covered under survey No. 192 (Old), 121 (New) of Village Channi Rama, Tehsil Bahu. The Appellant claims to have purchased land measuring 03 Kanal 02 Marlas 170 Sq.ft. from the said survey number through a proper sale deed registered on 10.05.1994 by Sub Registrar, Jammu followed by attestation of mutation No. 503 dated 28.11.1994. Respondent No. 2 too has purchased land measuring 01 Kanal from the same survey number through a sale deed registered on 02.05.2006 and Mutation No. 2954 stands attested in his favour as well. The sale deed of Respondent No. 2 was challenged by the Appellant before Principal District Judge Jammu who dismissed the suit order dated 08.02.2017, against which an Appeal was filed before the Hon'ble High Court, which too came to be dismissed vide order dated 13.11.2019.
2. Respondent No. 2 in the meantime moved an application on 30.05.2017 before the Deputy Commissioner, Jammu for demarcation of the said patch of land and

pursuant to his directions, Respondent No. 1 constituted a team of Revenue Officials and provided the report dated 06.04.2008 to the Deputy Commissioner. It is this report which was challenged by way of an Appeal before Divisional Commissioner, Jammu from where the Appeal was transferred to this Court on the application of Respondent No. 2 herein.

3. Ld. Counsel for the Appellant in his memo of appeal and in his oral arguments pleads that the appeal needs to be accepted on three grounds:-

- (i) that the report has been prepared without visiting of the spot, and at his back.
- (ii) that the report was not provided to him.
- (iii) that the report was prepared during the pendency of appeal before the Hon'ble High Court.

4. Respondent No. 2 who chose to appear in person throughout the proceedings of the case pleads that the matter stands settled by the Hon'ble High Court and he is the rightful claimant of the land as held by Tehsildar after proper enquiry and visiting of spot in presence of all the parties. He further stated that the appellant has been in full knowledge as he was summoned through Police.

5. On perusal of records on file it is observed that there is no appeal pending before the Hon'ble High Court as stated by Ld. Counsel for the appellant, the same having been dismissed by Hon'ble High Court vide Order dated 13.11.2019 by holding that there is no substance in the appeal. However, counsel for the appellant strangely pleaded his ignorance by advancing the logic that he has not been counsel before the Hon'ble High Court.

6. Before the matter in hand is finalized on merits, it is seen that the impugned order, which infact is a mere report addressed to Deputy Commissioner, Jammu has been passed by Tehsildar (Assistant Collector 1st Class) and the same is appealable before the Collector as provided under Section 11(a) of J&K Land Revenue Act, reproduced herein as under:-

"Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue Officer as follow, namely;

- a) to the Collector when the order is made by an Assistant Collector of either class.

7. The appeal in hand, thus having been presented before a wrong forum merits outright dismissal but to save further loss of time, the matter in hand is referred to Deputy Commissioner (Collector), Jammu for disposal under Law. No fresh summons are required to be issued to the Parties, who already have caused presence before this Court and have been directed to appear before the Court of Deputy Commissioner, Jammu on **28.09.2021**.
8. Interim Orders, if any, issued by this court are vacated.
9. File to be consigned to records after due completion.

Announced

23-9-2021.



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

No:- 398/RC - AP.

Dated: - 24-9-2021.

Copy of the order is forwarded to the Deputy Commissioner (Collector) Jammu along with original Appeal file Divisional Commissioner, Jammu containing 12) Leaves one Mathi for information and up 9

Per 24/09/21
Reader to
Financial Commissioner
J&K Govt.