

**BEFORE DR. M.S. SOOD, IAS; JOINT FINANCIAL COMMISSIONER
JAMMU AND KASHMIR AT JAMMU.**

* * * * *

File No:74/Jt.FC-AP

Date of Institution:13.02.2009

Date of Decision: 21.05.2014

In the case of: Aziza S/O Hurra R/O Dewal, Tehsil Gool Gulab Garh.

(Petitioner)

V E R S U S

Roshan Din S/O Mohammadoo R/O Dewal, Tehsil Gool Gulab Garh.

(Respondent)

In the matter of: Reference dated 20.07.1987 made by Id. Director Land Records with the powers of Divisional Commissioner Appeals in a revision petition against the order of Naib Tehsildar Mahore (Gool Gulab Garh) dated 23.06.1986 passed on Mutation Nos. 1856 and 1859 of estate Dewal, Tehsil Gool Gulabgarh.

Present: Nemo for the parties.

O R D E R

Ld. Director Land Records, Jammu has made a reference of a matter transferred to him by Id. Divisional Commissioner, Jammu. The issue relates to a revision petition against the order dated 23.06.1986 passed by Naib Tehsildar, Mahore (Gool Gulab Garh) on Mutation Nos. 1858 and 1859 whereby the inheritance of deceased Gania has been shown to have in favour of the Respondent, Roshan Din excluding the petitioner who claims to be lawful lineal successor (uncle) of the deceased who has died issueless. Ld. Director has accepted the Revision petition and recommended the matter for setting aside of impugned mutations and passing of fresh orders by Tehsildar concerned.

2) Parties were summoned who however did not appear before the court. The case was, as such, fixed for orders on merits.

3) I have perused the impugned mutations. I have also gone through the observations made by the court below. The copy of Shajra-Nasab (Pedigree) placed on the file clearly depicts that the petitioner is a full blooded uncle of deceased Ganai whose inheritance is in question. The respondent Roshan Din is remotely related to the deceased. The rule under Islamic Shariat (jurisprudence) provides that "nearer in degree excludes the remoter". Same rule also applies here. The Naib Tehsildar concerned has not mentioned any special circumstances under law which would have entitled the respondent to inheritance. Thus, the reference made by the court below is well within the parameters of law and facts, although the court below ought to have directed the petitioners to file two revisions with regard to two mutation orders but such discrepancy can be neglected in the interest of justice. ✓

4) In view of observations made above, the reference made by Id. Director Land Records, Jammu (with powers of Divisional Commissioner, Jammu) is accepted and the impugned mutations are set aside. The matters are remanded to Tehsildar, Mahore for passing of fresh orders after affording all the parties the chance of being heard. Interim order, if any, passed in the matter is vacated. File of the court below be sent back. Main file of this court shall go to records after due completion. ✓

Announced:
21.05.2014


(Dr.M.S. Sood) IAS
Joint Financial Commissioner