

Before Dr. M. S. Sood, IAS, Joint Financial Commissioner (AR)  
with the powers of Financial Commissioner (Revenue),  
J&K, Jammu/Srinagar.

File No:  
429 /Jt. FC/AP

Date of Institution  
19.08.2008

Date of Decision:  
20.03.2014

Ab. Ahad Ganaie s/o Gh. Mohamemd Ganaie r/o Harnipora A/P Khanable, Handwara.

... Petitioner

Vs

Md Yousuf 2. Nazir Ahmed 3. Bashir Ahmed 4. Javid Ahmed sons of Ghulam Mohammed  
Ganaie R's/o Harnipora Handwara.

... Respondents

Revision against the order of Naib Tehsildar [S], Handwara dated 12.08.2002 passed on  
mutation no. 115 in respect of the land falling under khasra no's 67, 130/108, 156/46, 67,  
89 & 52 min falling in estate Harnipora, Tehsil Handwara.

## ORDER


This revision petition is directed against the order dated 12.08.2002 passed by Naib Tehsildar(S), Handwara in respect of the land falling under khasra no's. 67, 130/108, 156/46, 67, 89 & 52 min falling in estate Harnipora, Tehsil Handwara, whereby the land has been mutated in favour of the respondents on the basis of consent decree passed by the court of Sub Judge Handwara in favour of the respondents. The petitioner who claims to be the brother and co-sharer of the respondents is aggrieved of the impugned order and has challenged the same before this court on the grounds that the impugned order has been passed at the back of the petitioner and the part of the land in question which ahs shown to be vested in respondents is Agrarian land which can not be alienated by any means. It is further contended that the civil court decree which has been passed by fraud means is not applicable in the matter in so far as civil court has no jurisdiction to entertain any kind of suite in respect of the land. It is further, stated that the impugned mutation has been passed against the express provisions of law and the rules contained in standing order 23-A and the mutating officer has made no proper enquiry before passing the order.

On presentation of petition, the respondents were summoned who failed to cause appearance before this court. Ex parte proceedings were accordingly, initiated against

them on 06.09.2012 counsel for the petitioner filed written arguments in the matter and the case was listed for orders.

I have perused the material placed on the record and also gone through the copy of the impugned mutation placed on file. I have also considered written arguments filed by the counsel for the petitioner. The impugned mutation has been attested on the basis of civil court decree. The said decree has been passed by the court of Ld. Sub Judge, Handwara. The perusal of the decree and the compromise agreement made by the parties makes it a clear that the parties have entered into some sort of mutual agreement with respect to the land in question although the agreement makes mention of contentions of the respondents and the decree has been passed solely on the statements of the respondents made in compromise agreement before the civil court of competent jurisdiction. It is also a fact that the part of the land that has been mutated in favour of the respondent is of Agrarian in nature and no alienation under the Agrarian Reforms Act, 1976 is permissible in respect of such part. However, the impugned mutation has been attested on the strength of court decree and the mutating officer was duty bound to give effect of such decree in records. The petitioner is actually aggrieved of the court decree which he claims to have been made under some collusive approach of the respondents. No doubt, the mutating officer has left certain lacunae while attesting the mutation but unless the decree of the court of civil judicature is challenged no orders of fresh enquiry and subsequent orders for attestation of mutation can be made. The revision is therefore, unripe and is dismissed for the want of substantive grounds. The petitioner is advised to approach the civil court to challenge the court decree on the strength of which the impugned orders have been passed.

The interim order if any passed in the case is withdrawn. The file shall go to records after due completion.

  
Dr. M. S. Sood, IAS  
Jt. Financial Commissioner (AR)

Announced:

20-3-14

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... decree passed by the  
... the petitioner who claims to be