

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

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File No: 66/Jt.FC-AP

Date of Institution: 18.08.2006

Date of Decision: 15.05.2014

In the case of: (1) Ghulam Mohammad (2) Ali Mohammad (3) Mohd. Subhan and (4) Abdul Rehman S's/O Ahad Baba R's/O Khalla Mulla, Tehsil Ganderbal.
(Petitioners)

V E R S U S

(1) Mohd. (2) Lassa and (3) Ama S's/O Ramzan Parray R's/O Pandach, Tehsil Ganderbal.
(Respondents)

In the matter of: Reference dated 10.08.2006 from the court of Id. Settlement Commissioner, J&K in a Revision against the order of Asstt. Commissioner (Revenue) Srinagar passed on File No. 15/AP of 1988 under No. 147/AP dated 30.01.1990.

**Appearing Counsels: 1) Mr. Nazim Khan, for Petitioners.
2) Haji H.R. Salati, for Respondents.**

O R D E R

This reference has come from the court of Id. Settlement Commissioner, J&K who by virtue of his order dated 10.08.2006 has set aside the order passed on 30.01.1990 on the strength of which Girdawari of Rabi 1990 in respect of landed estate belonging to State situated at Baba Darya Din Tehsil and District Ganderbal has been changed. The total land comprises of 97 Kanals 18 Marlas and by way of Girdawari entry, the petitioner has been shown to be in possession of 28 Kanals of land as against 42 Kanals of previous entry. The Id. Commissioner has by way of instant reference recommended for setting aside the order of Asstt. Commissioner (Revenue) and sending the matter back to District Collector for passing of fresh orders after due trial.

2. After receiving the reference from the court below, the parties were summoned who caused their presence through their respective counsels. The Id. counsels for the parties filed written statements in the matter and the case was listed for arguments.

3. I have perused the reference made by the court below. I have also gone through the written arguments filed by the Id. counsels for the parties as also the other material placed on record. The land in dispute is admittedly the State land. The land in question falling under Survey No. 672/651/433/385 measuring 97 Kanals was brought in possession by different persons including the parties to the case. The dispute over the possession of land arose in 1987 and the petitioners herein filed a civil suit before Munsiff Ganderbal in respect of land and the suit was decreed in their favour. Against such decree, the respondents went in appeal and the appellate court after accepting the appeal treated the matter as Agrarian and sent the matter to District Collector under relevant provisions to adjudicate upon the issue. The matter was dealt by Asstt. Commissioner and apparently on his directions the Girdawari entry of which petitioner is aggrieved was made. Since the matter was assigned to AC(R) under relevant provisions of Agrarian Reforms Act, he was supposed to hold enquiry and trail in the matter and there was no occasion for Girdawar Circle for effecting the entry that too when the matter related to State land. Moreover, the said entry was effected in absence of the petitioners who were supposed to be summoned and heard in the matter. The law laid down in the matter is clear that when the dispute with respect of possession of State land arises, it is to be dealt under the Agrarian Reforms (reference 1981 KLJ 129, 1980 JKLR 483, AIR 1981 J&K 29) therefore even though the matter was assigned to appropriate authority, but the procedure adopted and delegation of power was not proper. Therefore, the Id. Settlement Commissioner has rightly accepted the revision petition and set aside the impugned entry and sent the file back to Collector for appropriate orders.

4. The reference dated 10.08.2006 made by the Id. Settlement Commissioner is accepted and the impugned order/entries is/are set aside. The matter is remanded to the Collector, Agrarian Reforms for due enquiry and trial himself and passing of appropriate orders. Interim order, if any, issued in the matter is vacated. File shall go to records after due completion.

Announced:
15.05.2014

Sd/-
(Dr.M.S. Sood) IAS
Joint Financial Commissioner