

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

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**File No: 180/JFC/AP**

**Date of Institution: 27.12.2007**

**Date of Decision: 24.06.2014**

**In the case of:** Mohd. Hussain S/O Badar Din R/O Ratore Dhok Tehsil  
Jammu.

( Petitioner )

**V E R S U S**

Mohd. Din S/O Tota R/O Ratore Dhok Tehsil Jammu.

( Respondent )

**In the matter of:** Reference dated 08.12.2006 made by Id.  
Settlement Commissioner, J&K in a revision  
petition against the order dated 11.02.2006 of  
Settlement Officer with the powers of Collector,  
Jammu.

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**Appearing Counsels: 1) Mr. M.L. Bhat and Mr. D.N. Trisal, for Petitioner.**

**O R D E R**

This reference has been made by Id. Settlement Commissioner, J&K, Jammu on 08.12.2006 in respect of a revision before him against the order dated 11.02.2006 passed by Id. Settlement Officer, Jammu (with the powers of Collector). Id. Commissioner has by dint of said order accepted the revision against the order of Settlement Officer, Jammu and referred the matter to the court of Financial Commissioner (Revenue) for appropriate orders. Id. Financial Commissioner (Revenue) has assigned the matter to this court.

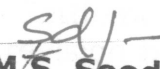
2) Id. Settlement Officer, Jammu by virtue of his order dated 06.08.2005 dismissed an appeal filed by the petitioner herein before him. Afterwards, the petitioner filed an application for restoration of the appeal which was also dismissed in default on 11.02.2006. The petitioner feeling aggrieved of the order filed a revision before Id. Settlement Commissioner, J&K who has sent the instant reference.

3) The parties were summoned before this court. Respondent exhibited scant interest to appear in the matter and was accordingly set in ex-parte on 22.04.2013. Ld. Counsel for petitioner advanced the oral arguments and the case was fixed for orders.

4) I have heard and considered the arguments advanced. I have also perused the material placed on record. The main contention of the petitioner counsel in support of his case is that due to insertions and changes in dates of hearing, the communication gap between the court and litigating party resulted which later led to dismissal in default. The prime function of the courts of law is to dispense justice. Although the litigant may not be able to put forth his case or may be constrained by circumstances to remain absent from the court in the case which would effect its speedy resolution but the court is duty bound to dispense justice without going into minute technicalities involved in the case. The court ought to provide proper opportunity to either of the parties to advance their cause.

5) The findings returned by the Id. Settlement Commissioner are in accordance with law and factual aspects of the case. The reference made by Id. Settlement Commissioner is, therefore, accepted and the revision petition against the order of Settlement Officer, Jammu (with the powers of J&K) is allowed and the matter is sent back to Settlement Officer, Jammu who shall hear both the parties afresh and pass appropriate orders in the appeal. Interim orders, if any, passed in the case is vacated. The subordinate file of the court below be sent back and file of this court shall go to records after due completion.

**Announced:**  
**24.06.2014**

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