

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

File No:
287/Jt. FC/AP

Date of Institution
.09.03.2009

Date of Decision:
18.02.2014

Mst. Jana d/o Karim Rather w/o Ghulam Mohammed Beigh r/o Badran
Tehsil, Beerwah.

.... Petitioner

Vs

Satar s/o Karim Rather r/o Barazalla Tehsil, Pattan.

... Respondent

In the matter of:

Revision petition against the order of Settlement
Commissioner, J&K, Srinagar dated 05.10.2006 passed on file
No.596/SC/AP and against the order dated 13.08.1983
passed on mutation no. 73 of village Barazalla Tehsil
Baramulla regarding inheritance of late Karim Rather.

Present: - Mr. H. R. Salati, Advocate for petitioner.
Mr. Ghulam Rasool Dar, Advocate for respondent.

ORDER

The brief history of the case is that one Karim Rather of village Barazalla, Tehsil Pattan died leaving behind his landed property. He has one son Satar Rather two daughters viz Mst Taja and Mst Jana and his widow Mst Zeba. His landed property was dissolved on his son Satar Rather and his widow to the exclusion of his two daughters vide mutation no. 73 dated 13.08.1983.

One of the daughters Mst. Jana filed a revision petition against the order passed on mutation no. 73 dated 13.08.1983 before Ld.

Settlement Commissioner on the plea that the order was passed behind her back and she is also entitled to the share of her father's property.

Ld. Settlement Commissioner dismissed her revision on the ground that her sister was present at the time of passing the order on the mutation no.73.

Hence this revision before this court. The instant revision was actually filed before Id. Financial Commissioner (Rev) who transferred the case to this court on 05.03.2009.

The case came up for hearing. Ld. Counsels for the parties submitted their written statement.

I have gone through the records and reached the conclusion that the impugned mutation was passed at the back of the petitioner as such is against principles of natural justice secondly it has been admitted by the respondent before Id. Settlement Commissioner that petitioner was absent at the time of attestation of impugned mutation. The impugned mutation has been passed in ex-parte and is as such bad in law. Thirdly the instant case is a pending adjudication as the revision before the Id. Settlement Commissioner was filed on 24.11.2005 and will come under Shariat Application Act, 2007.

Therefore, the revision is accepted and the order passed by Id. Settlement Commissioner is set aside and order passed on mutation no. 73 dated 13.08.1983 of village Barazalla, Tehsil Pattan is also set-aside and case is remanded to Tehsildar Pattan, Baramulla for passing fresh orders under Muslim Personal Law (Shariat Application) Act, 2007.

Stay order, if any, issued is vacated. File be consigned to records after due completion.

Announced:
18.02.2014

sd/-
Dr. M. S. Soob, IAS
Jt. Financial Commissioner (AR)