

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

File No:
149/Jt. FC/AP

Date of Institution
22.05.1989

Date of Decision:
13.03.2014

State [Petitioner]

Vs

1. Gian Chand s/o Thoru Ram 2. Bharat Bhushan s/o Kashmiri Lal 3. Isher Singh s/o Chhatter Singh 4. Lal Singh s/o Kahan Singh 5. Harmeet Singh s/o Kartar Singh 6. Isher Singh s/o Raj Singh r/o Chhani Rama Tehsil Jammu.

... Respondents

In the matter of:

Reference dated 22.5.1989 made by Id Div. Commissioner, Jammu in a revision petition against the order dated 22.8.1982 passed on mutation no. 917 pertaining to estate Channi Rama Tehsil Jammu.

Present: Asstt. Revenue Attorney for State
Nemo for respondents.

ORDER

This is a reference dated 22.5.1989 made by Id. Divisional Commissioner, Jammu in revision petition against the order dated 22.8.1982 passed on mutation no. 917 by Tehsildar Jammu with regard to land falling under survey no 331 min. Id. Divisional Commissioner has taken the suo-motto cognizance of the matter to examine the propriety of impugned mutation and after accepting the revision petition has recommended that the impugned mutation be set aside and appropriate departmental proceedings be initiated against the delinquent officer/officials for misusing the powers while attesting the mutation.

After receiving the reference from the court of Id. Divisional Commissioner, the parties were summoned to appear in the case. The parties initially appeared in the case but latter chose to remain absent. The matter was therefore, listed for orders on its merits.

I have gone through the reference made by the court below and have also perused the impugned mutation the copy of which is placed on the record of the court below. The land in respect of which the impugned order has been passed clearly falls within the radius of 16 km from Purani Mandi and is as such Nazool land and such land would come under the purview of Land Grants Act and no mutation whatsoever ought to have been attested

regarding such land in favour of any person and for that matter resort ought to have made under the provisions of Land Grants Act. . Moreover, consent of any person to part away with the possession of land not belonging to him is not permissible under law. Sehat Kasht mutation regarding the unauthorized occupation over the state land is not acceptable to any extent of imagination. The land belongs to state and comes within the ambit of the Nazool authorities and Tehsildar concerned of that time should not have passed the impugned order in respect of such land,. Since the court below has taken suo-motto cognizance of the matter and has rightly arrived at conclusion that the impugned mutation being illegal and not within the parameters of law, the same be set aside. This court does not have reason to interfere with the reference made by court below.

The reference dated 22.5.1989 made by the Ld. Divisional commissioner, Jammu is accepted and the impugned mutation is set aside. Let the land in question be restored to state under public premises [eviction of unauthorized Occupants] Act, 1996 or otherwise. A copy of this order be sent to authorities under Land Grants Act for necessary action. Moreover a separate disciplinary is directed to taken against the delinquent revenue officials involved in matter as an attempt has been deliberately made to bring the state at loss and help encroachment of state land. Interim order if any passed in the matter are vacated. File shall go to records after due completion.

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

✓ Announced:
13.03.2014

Cor
No:-366/JT/FC-AP

No: 13/3/2014

Copy to the Tehsildar Jammu for information
and n/action.