

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU
Present Dr. Pawan Kotwal, IAS.

File No.
06/Revision
2013-14

Date of Institution
17-04-2013

Date of Decision.
15-10-2016

Amin Chand S/o Sh. Giano
R/o W.No. 10 Kathua, Tehsil & District Kathua

(Petitioner)

V/S

1. Gandharab Singh S/o Dharam Singh R/o W.No.11 Kathua, Tehsil & District Kathua.
2. Smt. Soma Devi W/o Sh. Bachan Lal D/o Late Sh. Giano R/o Janial Tehsil & District Pathankot (Punjab)
3. Naib Tehsildar Kathua
4. Patwari Patwar Halqa Taraf Manjali Kathua.
5. Smt. Rano Devi W/o Sh. Vijay Kumar D/o Late Sh. Gian R/o Bomial, Tehsil & District Pathankot (Punjab)

(Respondents)

In the Matter of: Revision Petition against the order dated 22-12-2008 passed by the Deputy Commissioner Kathua in an appeal against the order dated 28-06-2000 passed by the Naib Tehsildar Kathua respondent No.3 on mutation No. 2499 in R/o land comprised of Khasra No.1567/393min measuring 01 Kanal and 02 Marlas & Khasra No. 1568/393min measuring 04 Kanals situated at Village Taraf Majali Tehsil & District Kathua whereby the mutation has been attested in favour of the respondent No.1, by which the appeal has been dismissed for non prosecution. Prayer for setting aside the same.

Appearing counsel : Advocate Roop Lal for petitioner.
Advocate Ravinder Sharam for respondents.

ORDER

1. The present revision petition has been filed against the order of Deputy Commissioner Kathua dated 22-12-2008 by virtue of which the appeal is dismissed for non appearance of appellant.
2. The case came up for hearing. Counsel for both the parties present. Counsel for petitioner reiterated the grounds taken in the memo of petition & pleaded to set aside. The order of the court below dated 22-12-2008. Whereas counsel for respondent pleaded that restoration application filed by appellant is pending disposal before the court below & as such the revision petition filed is not maintainable & be dismissed.
3. I have heard the counsel of both the parties & record file of court below is examined which shows that the counsel for petitioner herein filed restoration application before the court below on 03-02-2009 and as per order dated 10-02-2009, the case is restored and direction to issue notice to respondents has been passed.



4. Further, the order sheet of the case file also reveals that both the parties attended the court below up to 30-04-2013 wherein next date of hearing had been fixed on 08-06-2013
5. It is important to mention that it is stated in the petition that petitioner came to know about the dismissal of appeal on 07-04-2013. But order sheet of the case file reveals that the counsel has filed application for restoration before the court below on 03-02-2009 and attended the proceedings before the court below & the same counsel had filed the revision petition against the order dated 22-12-2008 before this court thus it is obvious that the counsel for petitioner has not come to this court with clean hands & has rather misled the court.

In view of the above facts it is found that the appeal has already been restored & pending before court below & as such the revision petition is premature and not maintainable. Hence the petition is dismissed.

Parties to appear before court below for further proceedings. A copy of this order along with record file be sent to court below for information & further necessary action in the matter.

Stay issued if any shall stand vacated. The case file be consigned to records after due completion.



**(Dr. Pawan Kotwal) IAS,
Divisional Commissioner,
Jammu.**

Announced
15-10-2016.