

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU

Present:- Dr. Pawan Kotwal, IAS.

File No.
63/2014
Appeal

Date of Institution
29-11-2014

Date of Decision.
11-02-2017

Babu Ram
S/o Sh. Munshi Ram R/o Village Lehrian,
Tehsil Akhnoor & District Jammu

(Appellant)

V/S

1. Rajesh Kumar S/o Late sh. Rattan Lal
 2. Subash Chander S/o Munshi Ram
 3. Sham Lal S/o Sh. Munshi Ram
- All residence of Akhnoor & District Jammu

(Respondents)

In the Matter of :

Appeal U/S 7 the J&K State Land (Vesting of ownership rights to the occupants) Act 2001 against the order No. DCJ/HQA/Roshni/ Agri /791-5-16 dated 12-12-2007 passed by the District collector, Jammu and subsequent (Mutation No.306 dated 29-05-2008 and mutation No.338 dated 12-01-2011 attested on the basis of order impugned and their implementation with respect to land measuring 12 Kanals falling under Khasra No.342 in there by ownership rights have been vested U/S 6(3) of the above said Act upon respondent No. 1 to 3 by forgery.

Prayer for setting aside the order impugned and its implementation through mutation No.306 and mutation No.338 dated 12-01-2011 further directing the District collector Jammu to pass fresh order by vesting ownership rights U/S 6(3) only upon the appellant and call the record of the Tehsildar Akhnoor.

Prayer for any other direction order as this Hon'ble Court may deem appropriate in the circumstances of the case including referring the matter to crime Branch Jammu for investigation.

Appearing Counsel : Appellant in person.

Advocate M L Gupta for respondents 2 & 3


ORDER

1. The case came up for hearing. Appellant present in person. Counsel for respondent 2 & 3 are present.
2. Appellant submitted that he was in actual possession of the land in question & respondents 1 to 3 were not occupants of the land over which ownership rights is have been conferred on petitioner as well as respondents. The order passed is contrary to the spirit of the Act. He prayed to set aside the order impugned dated 12-12-2007 & subsequent mutation No. 306 dated 29-05-2008 & 338 dated 12-01-2011.

3. Counsel for respondents 2 & 3 raised the issue of condonation of delay in filing appeal & the point of Jurisdiction of this court contending that as per the act, this court lacks Jurisdiction in the matter. He cited section 7 & rule 17 of the said Act. & pleaded that an appeal filed by an aggrieved person against order of committee is maintainable before the Govt. or the authority appointed by the Govt in this behalf. He submitted that the appeal deserves outright dismissal on the point of Jurisdiction.
4. I have heard the arguments of the parties. Reply filed by respondent No.1 & objections & written arguments filed by respondents 2 & 3 are gone thorough from which it has been observed that the matter pertains to the order No. DCJ/HQA/Roshni/ Agri/7915-16 dated 12-12-2007 passed by Deputy Commissioner, Jammu under J&K State Land (Vesting of ownership rights to the occupants) Act 2001.
5. The bare perusal of Sec-7 of the said Act reveals that an appeal in such matters is maintainable with regard to price only (for vesting of free hold rights in favour of an occupant) and that will lie before the Govt.
6. Further it may be noted that no other forum has been provided in the Act to hear or adjudicate upon the matters arising out of the orders passed by committee constituted under the said Act.
7. It is pertinent to mention that the issue raised by the counsel of respondents 2 & 3 with regard to jurisdiction of this court in the matter has legal force & this court is satisfied in this regard.
8. In view of the above facts and law point involved in the matter, it is clear that this court lacks jurisdiction in the appeal in hand and as such cannot adjudicate upon.
9. Hence the instant appeal is not maintainable in this court for want of jurisdiction and is thus dismissed.

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

Announced
11-02-2017


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