



IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU

Present: (Dr. M.K. Bhandari)IAS

File No. 18/Revision
2011-12

Date of Institution
09.06.2011

Date of Decision.
06.12.2017

1. Bishamber Nath S/o Shri Gouri Shanker
R/o Gho Brahamna Tehsil and Distt
Samba.

(Petitioner)

V/S

1. Shiv Lal S/o Ashar
R/o Gho Brahamna Tehsil and Distt. Samb.
2. Addl. Deputy Commissioner, Samba
3. Tehsildar, Samba
4. Girdawari and Patwari Halqua
Gho Brahamna, Tehsil Samba.

(Respondents)

In the matter of: Revision Petition under Land Revenue Act 1996 (Svt) against the order dated 15-03-2011 passed by the Learned Add. Deputy Commissioner, Samba in file No. ADC/SI titled Bishamber Nath versus Shiv Lal and others where by the appeal preferred by Petitioner against the order dated 13-08-2009 passed by Tehsildar, Samba changing kast entry in respect of land comprising survey No. 223 (2 kanlals 6 marlas), 229 (12 marlas), 673/312 (2 kanals 15 marlas) situated in village Gho Brahamna Teshil and District Samba in favour of Respondent No. 1 arbitrarily and without any justification.

Prayer for setting aside both the orders.

ORDER

1. The present petition has been filed against the Order of Learned Additional Deputy Commissioner, Samba dated 15.03.2011 upholding the order passed on mutation No. 558 of village Gho Brahmana.

W

2. The case came up for hearing. Nobody appeared for petitioner. Respondent alongwith counsel present. He repeated the written objections filed to the revision petition and further apprised the court that the present revision petition has been filed in the wrong forum since the Village Gho Brahmana where the land in question is situated, is under settlement operation. As such this court lacks jurisdiction in the matter.
3. He cited the SRO No. 314 dated 29 July 1999 whereby the Govt has directed that the records of rights of all the estates of the said Tehsils including Tehsil Samba shall be revised. The Tehsils mentioned in SRO 314 have, therefore, come under settlement operation.
4. The learned counsel further apprised this court of Section 6(6) of Land Revenue Act Samvat 1996, with regard to jurisdiction of this court. The learned counsel for the respondent has accordingly prayed the court for the dismissal of the subject revision petition being filed before wrong forum.
5. I have heard the counsel for respondent and examined the record from which it is observed that the dispute between the parties pertains to Village Gho Brahmana which falls in Tehsil Samba and as per SRO No. 314 dated 29- July-1999 has come under settlement operation.
6. With regard to contention of the counsel for respondent on the point of Jurisdiction a report from Regional Director Survey and Land Records (Ex-Officio Settlement Officer) Jammu was sought, who vide letter No. RDSCR/J/R/17/511 dated 29-11-2017 has informed that "***the settlement of Village Gho Brahmana has not been completed as yet and is still under the purview of settlement operation. The said village has not been de-notified***". This clearly confirms the plea of respondent.
7. Sec-6(6) of Land Revenue Act SVT. 1996 reads as under:

"the Divisional Commissioner and the Collector, shall respectively include the Settlement Commissioner & Settlement Officer and the

ms

Assistant Collector of the first Class shall include Assistant Settlement Commissioner Settlement Officer and the Settlement Tehsildar, and Assistant Collector of the second class shall include the Settlement Naib Tehsildar.

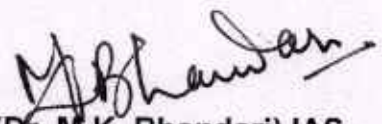
Provided that, the jurisdiction of Settlement Commissioner Settlement Officers, Assistant Settlement officer, Settlement Tehsildars and Naib Tehsildars shall extend only to the tracts under settlement:

Provided further that, the officers other than those specified in the first proviso shall, unless otherwise directed by the Government, not exercise jurisdiction in regard to cases arising out of Settlement operation".

8. Thus in view of what has been discussed above it is clear that this court lacks jurisdiction in the matter. With these observations, the subject petition is accordingly disposed of. The petitioner may approach to the competent forum if he chooses so. A copy of this order be sent to Additional Deputy Commissioner, Samba for information.
9. The interim orders, if any, issued by this court are vacated. The case file be consigned records after due completion.

Announced

06-12-2017


(Dr. M.K. Bhandari) IAS
Divisional Commissioner,
Jammu

No.: 801/1301

Dated: 20-12-2017

Copy of order dated 06-12-2017 alongwith record file containing 77 leaves in the case titled Bishamber Nath Vs Shiv Lal & ors is forwarded to the Additional Deputy Commissioner Samba for information and necessary action R.


(Virek Chander)
TEHSILDAR
Head Quarter Asstt. to
Divisional Commissioner
Jammu