

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

File No.

05/Revision
2014-15

Date of Institution

15-5-2015

Date of Decision.

29-04-2017

Chuni Lal

S/o Mangu R/o Plora Tehsil And District Jammu

(Appellant)

V/S

1. Sindoro Devi W/o Late Karnail Singh S/o Kanshi Ram
2. Subash Singh
3. Mohan Singh

Both sons of Late Karnail Singh

All residents of Kote Mehra Tehsil Akhnoor Post Office Playianwala District Jammu

(Respondents)

In the matter of:-

Revision petition against the mutation and Girdwari dated 27-03-2011 passed by the Tehsildar Akhnoor.


Prayer for setting aside the same.

ORDER

1. The present petition has been filed against the mutation and Girdwari dated 27-03-2011 passed by the Tehsildar Akhnoor on the following grounds:-

- I) That the impugned mutation and Girdwari dated 27-03-2011 passed by the Tehsildar Akhnoor is against the law and facts and hence deserves to be set aside.
- II) That the Tehsildar below has miserably failed to appreciate the fact that the Khasra Girdwari and mutation has been changed without giving an opportunity of being heard to the petitioner which is illegal and against the basic spirit law and hence deserves to be set aside.
- III) That the impugned mutation and Girdwari dated 27-03-2011 passed by the Tehsildar Akhnoor are also bad in the eyes of law because the Tehsildar Akhnoor was hand in glove with Karnail Singh (Husband and father of respondents) and no spot visited was conducted by the Tehsildar. The officer below is under obligation to visit the spot in presence of both the parties for conducting the enquiry but no information notice was given to the petitioner about spot inspection. Hence the impugned order is not sustainable in the eyes of law and hence the same deserves to be set aside.
- IV) That no opportunity of being heard was provided to the petitioner by the Tehsildar Akhnoor as such the impugned mutation and Khasra girdwari mutated in favour of Karnail Singh and this fact is clear from the bear perusal of the mutation sheet but contrary version has been put forth by the officer below in the impugned and Girdwari. Hence the impugned mutation and Khasra Girdwari are bad in the eyes of law and hence the same deserves to be set aside.

- V) That the Tehsildar Akhnoor has passed the impugned mutation and Girdwari without the application of mind. Hence the impugned mutation and Khasra girdwari are also bad in the eyes of law and hence the same deserves to be set aside.
- VI) That the principles of natural justice have been violated by the Tehsildar Akhnoor while passing the impugned mutation and Girdwari and hence the impugned mutation and Girdwari deserves to be set aside.
2. The case came up for hearing. Petitioner present in person. Respondents along with Counsel present. Petitioner submitted that father of petitioner and husband of respondent father of respondents 2&3 were local allottees & were a possession of the land measuring 10 k 16 marla comprising Kh no 875 min of Channi Dewana
 3. But there after Karnail Singh got mutation of Sehat Kasht attested on 27- 03- 2011 without any notice and at the back of the Petitioner & prayed to set-aside the mutation. On the other hand the Counsel for respondent pleaded that the mutation under challenge has been attested under law & thus the Petition be dismissed.
 4. I have heard both the parties The record placed on file is perused from which it has come to fore that both Mangoo & Karnail Singh were local allottees & were in possession of the land in dispute measuring 10 k 16 m in equal Share Copy of Kh Girdawri reflects the entry of both the parties up to Rabi 2009 & the mutation for Sahat kasht stands attested on 27-3-2011.
 5. It has also been found that there is no mention of presence of petitioners which shows that it has been attested at the back of petitioners herein which is against the principle of nature Justice.
 6. It is a settled principle of law that any kind of mutation attested in favor of one party
 - I) In the absence of other party or
 - II) without affording the interested party right of being heard and
 - III) Any mutation not attested on spot is not legally maintainable.
 7. In the present case also the above cited provisions appears to not have been followed & as such the mutation impugned is not tenable & deserves to be set aside.
 8. In view of the above this court is of the opinion that the provisions of standing order 23 A have not been followed as such the present petition having merit deserves to be allowed & mutation impugned set aside.
 9. The case warrants remand to Tehsildar Akhnoor for conducting fresh enquiry in presence of the parties & other respectable persons of the village & to pass fresh order after hearing all the interested parties.
 10. Accordingly the case U/S 15(3) of Land Revenue Act is submitted to Learned Financial Commissioner (R) J&K Jammu for confirmation.
 11. Both the parties are directed to appear on 20-06-2017 before Learned Financial Commissioner (R) J&K Jammu.


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

Announced
29.4.2017