

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

File No.

43/Appeal  
2016-17

Date of Institution

14-10-2016.

Date of Decision.

18-03-2017

Mohd Ayub S/o Choudhary Dewan Ali R/o Draptey Tehsil R.S Pura District Jammu  
(Appellant)

V/S

Masooma Bibi W/o Late Mohd. Latif R/o Draptey Tehsil R.S. Pura District Jammu.  
(Respondent)

**In The Matter of :-**

Appeal against the order dated 16-09-2016 in file No.DCJ/ARA/2016-17/237-38 passed by Learned Deputy Commissioner Jammu without any jurisdiction and without giving any opportunity of being heard to appellant so, the order is bad in the Eyes of law.

Prayer for setting aside the impugned order.

**Appearing Counsel: Advocate Ch. Anayat Ullah for petitioner.**  
**Respondent in person.**

**ORDER**

1. The appellant most respectfully submits as under:-

- a. That the appellant is the owner and Possession of land measuring 10 Marlas and presently possessing the 9 Marlas falling under Khasra No. Old 22 min present 147 situated at Village Draptey R.S Pura and land measuring 1 marla falls in the Nallah therefore, the appellant by virtue of present Appeal claiming the right over land measuring 9 Marlas and the name of the appellant has also entered in the revenue record.
- b. That the aforesaid land was sold by the husband of the respondent on 13-05-1995 by sale consideration of Rs. 20,000/- and an agreement to sell was also executed afterwards the said land is in the possession of the appellant.
- c. That as per the agreement to sell land measuring 2 Kanal was mistakenly allotted to appellant and a meeting of the biradri was held and the appellant has voluntarily returned the land to the husband of the respondent and out of total land 10 marlas of land was sold to appellant as mentioned in proceeding para.
- d. That the husband of the respondent has died around 10-15 years ago thereafter, the respondent has filed a case before the Custodian evacuee property Jammu and when appellant appeared and shows his concern then said appeal was dismissed.
- e. That the said application was decided without any Jurisdiction by the leard Deputy Commissioner Jammu on dated 16-09-2016 in file No. DCJ/ARA/2016-17/237-38.
- f. That two days back appellant come to know about the passing of any such order thereafter, applicant has approached to concerned office and applied for the certified copy which was obtained on 07-10-2016 and now filing the present revision without any delay.

2. The case came up for hearing. Appellant along with counsel present. Respondent present in person.
3. Counsel for appellant reiterated the grounds taken in the memo of appeal and further pleaded that entry with regard to 10 Marla of land in Kh. No. 147 is as per possession & he is the owner of the said land. Deputy Commissioner Jammu passed order on the application of respondent without providing opportunity of being heard which is against the principle of natural justice prayed to set aside the order impugned. Whereas respondent submitted that she is the owner of the land but respondent is interfering and prayed to dismiss the appeal.
4. I have heard the arguments of both the parties & record perused from which it has been found that an entry for the land measuring 1 K 11 M stands recorded in Kh. Girdawari of Rabi 2013 comprising Kh. No.147 in favour of appellant as allottee in column III.

5. However, perusal of order under challenge reveals that it has been passed on the basis of an enquiry conducted by Tehsildar RS Pura & demarcation report of Naib Tehsildar RS Pura dated 30-05-2013 & 19-06-2015 respectively.
6. Further, it has also been found that Additional Deputy Commissioner, Jammu on the direction of Deputy Commissioner, Jammu also conducted a detail enquiry and after considering revenue record & reports of field staff has found that entry recorded in favour of Mohd Ayub as an allottee is wrong & illegal & has submitted to delete the entry from the name of Mohd Ayub and to restore the entry in favour of Masooma Bibi.
7. Therefore, from the above it has been found that court below after considering demarcation report & enquiry reports conducted in the matter has passed order to restore the entry for land measuring 1 K 11 M in favour of respondent herein (Masooma Bibi).

In view of what has been discussed above this court has come to the conclusion that the order passed is as per law & needs no interference.

Hence the appeal in hand being devoid of merit is dismissed and order dated 16-09-2016 is upheld.

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

18-3-2017

No:- 801/1348-

Dated: 30/03/2017

Copy of order dated 10-03-2017 along with record file containing 36 leaves in the case titled Mohd Ayub vs Masooma Bibi is forwarded to Deputy Commissioner Jammu. for information & further necessary action pl.



Reader to  
Divisional Commissioner  
JAMMU