



**IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU**  
**Present:(Dr. M.K Bhandari)IAS**

File No. 22/Appeal  
2017-18

Date of Institution  
10-7-2017

Date of Decision.  
06-12-2017

Vakil Singh S/o Sh. Kamal Singh R/o Village Ladhiala, Tehsil And District Udhampur.

(Appellant)

**VERSUS**

1. Uttam Singh S/o Chet Ram.
  2. Shakti Singh S/o Badri Nath
  3. Romel Singh 4. Chain Singh both Sons of Sunit Singh.
  5. Hans Raj S/o Hari Chand.
- All resident of Village Ladhiala, Tehsil and District Udhampur, J&K.

(Respondents)

**In the matter of:** Suit for correction of revenue Records.

Advocate B.L Bhat for appellant.  
Advocate Ashok Gupta for respondents.

**ORDER**

The present appeal has been filed against the order of Deputy Commissioner Udhampur dated 30-06-2017 passed for correction revenue record in a suit filed under section 32 LR Act.

The facts of the case are that:

1. Khasra No. 2639 of Village Ladhiala has been recorded in 1970-71 as Maqbooza Malkain Shamlat Deh Hasad Rasad Khewat and entry in the land comprising Kh. No. 2639 old, (new Kh. No. 300 Carved out during settlement operation) for

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shamlat land measuring 24 K 15 M had been recorded in the name of Vakil Singh S/o Kamal Singh.

2. The same stands recorded in the missal Haqiat of 20-10-2011 prepared after settlement.
3. Tehsildar Udhampur, vide order dated 28-07-2012, set aside the entry of Vakil Singh & ordered for recording of land as Maqbooza Malkan.
4. Feeling aggrieved of the above order of Tehsildar Vakil Singh filed an appeal before Deputy Commissioner Udhampur in September, 2012.
5. Prior to this Uttam Singh & Ors. filed a suit which came to be decided on 30-06-2017, whereby it was ordered that revenue record of rights regarding old Kh. No.2639 (corresponding to New Kh. No. 300) of Village Salay, Udhampur be corrected.
6. The present appeal has been directed by appellant against the order of Deputy Commissioner Udhampur on the following grounds:
  - a. That the order dated 30-06-2017 passed by the court of District Collector. Udhampur, is against the law and facts and deserves to be set aside.
  - b. That the Ld. Lower Court has upheld the decision of Tehsildar Udhampur in the suit against which the appeal is still pending before the Ld. Court of District Collector Udhampur and the next date of hearing has been fixed on 29-07-2017 titled Dr. Vakil Singh (Appellant) V/S Tehsildar Udhampur which has neither been decided nor clubbed with the present suit decision.
  - c. The suit land under the survey No. Old 2639 (now survey No.300 min) measuring 24 Kanals and 15 Marlas situated in Village Landhiala, Tehsil and Distt. Udhampur is owned and possessed by the appellant from the

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time immemorial and the appellant's residential house also stands on this land with other standing property.

- d. The appellant is a Doctor and was in Government service and served in different areas of the state due to which had no knowledge of the tempering of the Revenue Records ex- parte which he brought in the knowledge of the District Collector Udhampur also.
  - e. That the respondents have no right legal or factual to interfere with the appellants suit land the respondents are neither Co-heirs, nor co-sharers of the appellant due to which lower court decision deserves to be set aside.
7. The case came up for hearing. The Counsel for appellant is present. Respondents along with Counsel are also present.
  8. Counsel for appellant pleaded that Ld. Lower Court has not conducted proceedings in the suit under CPC. It is merely an application in which order was passed. No decree has been passed U/S 32 of LR Act. The order is an interim order & not a decree. He further pleaded that his appeal filed against the order of Tehsildar is pending is but his order has been upheld. He cited provisions 111-A -112 & 139- I of LR Act.
  9. The Counsel for respondents contended that this court has no jurisdiction in the matter. He submitted that appellant moved suit under Sec-32 LR Act and decree is yet to follow in the matter.
  10. The appellant should have gone to the Civil Court. He should have come against final order & not against interim order.
  11. I have heard the arguments of both the counsels & perused the record file of the subordinate Court. It has been observed that Khewat 35, Khata 247 (sabqa Khewat 181 min, Khata 948), old Kh. No. 2639 New (Kh. No. 300) with land

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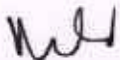
measuring 459 K 1 Marla 5 Sq/ft has been recorded as Shamlat deh Hasab Rasad Khewat Taraf Salery under the possession of owners (Maqbooza Malkan). The appellant herein has approached against the order of Deputy Commissioner Udhampur passed in a suit filed by the respondents herein U/S 32 of LR Act.

12. From the record it has been found that Khasra No. 2639 old (300 New) of Village Ladyala has been recorded under possession of owners (Maqbooza Malkan). During Settlement operation an entry in record of rights has been made for the above mentioned Kh. No. for the land measuring 24 K 15 M in favour of appellant herein.
13. The above said entry had been challenged before Deputy Commissioner Udhampur by way of suit U/S 32 by the respondents herein for correction of record of rights & the same was decided on 30-06-2017 by virtue of which the suit was allowed and land measuring 10 K 11 M out of 24 K 15 M has been ordered to be recorded under New Kh. No. 300 corresponding to old Kh. No. 2639 Taref Saley and remaining 14 K 11 under New Kh. No. 300 corresponding to old Kh. No.2655 Taraf Ladyala .
14. The entry recorded/ made for Shamlat Deh Land for 24 K 15 M in Kh. No. 2639 in favour of Vakil Singh had been set aside by Tehsildar Udhampur vide order dated 28-07-2012. The order passed by Tehsildar Udhampur is not just against Vakil Singh but it is a general order wherein a direction in the light of Hon'ble Supreme Court Order passed in the case titled "Jagpal Singh & Ors. V/S State of Panjab & Ors." has been passed on to all Naib Tehsildars of Udhampur for directing field staff to cancel all such entries. From the perusal of copy of Khasra Girdawari of Rabi 2012 of Village Ladyala comprising Kh. No. 33, 100, 452, 354, it has been found that entries made in favour of other persons have been cancelled in the light of the order of Tehsildar.

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15. The appellant (Vakil Singh) has been found to file an appeal before Deputy Commissioner, Udhampur which also came to be decided with the suit & the order passed by Tehsildar Udhampur has been upheld. The main contention of the appellant is that Procedure U/S 32 has not been adopted by the court below and no issues were framed.
16. The appeal filed by appellant against the order of Tehsildar Udhampur is pending before Deputy Commissioner, Udhampur & 29-07-2017 is the next date of hearing but the court below has upheld the orders of Tehsildar which is neither decided nor clubbed with the suit and has prayed to set aside the order
17. From the order impugned it has been observed that court below after obtaining report from Tehsildar concerned, has passed order in the suit, which is based on facts & spot position.
18. The Shamlat Lands belong to old owners (Zadi Malik) of the Mahal/ Village and they have share in accordance to their proprietary land, which can be entered on the names of owners after partition of such land. It appears that the entries made without partition have rightly been ordered to be cancelled by Tehsildar Udhampur.
19. The contention/ plea of the appellant that his appeal is pending disposal & the order passed by Tehsildar has been upheld during its pendency, has no legality since the land comparing Kh. No. 300 meaning 24K 13 M taken in the appeal was also the land in dispute in the suit and as such has been decided upon by upholding the order of Tehsildar. For the other land comprising Kh. No. 1027, 1033, measuring 9 K 8 M & 13K 14M situated in village Ladyala, the case is pending before Deputy Commissioner Udhampur.
20. In view of the above this court is the opinion that the order passed by Deputy Commissioner Udhampur does not suffer from any infirmity & needs no interference by this court. Hence the appeal being without merit is dismissed & order under Challenge is upheld. A copy of this order be sent to Deputy



Commissioner Udhampur for information & further necessary action. Stay issued if, any, is hereby vacated. The case file be consigned to records after due completion.

*M. K. Bhandari*

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

Announced  
6-12-2017

No:-801/1302

Dated:-20-12-2017

Copy of order dated 06-12-2017 along with record file containing 99 leaves in the case titled Sakil Singh vs Utkam Singh &ors is forwarded to the Deputy Commissioner Udhampur for information and further necessary action etc.

*Vivake Chander*

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