



IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU

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

File No. 101/Revision 2016-17 Date of Institution 14-3-2017 Date of Decision 01-9-2017

1. Chander Pal Singh
2. Jaspal Singh Sons of Kamal Singh R/o Topsherkhania Tehsil Jammu
3. Mrs. Neelam W/o Bawant Singh D/o Kamal Singh R/o Panjgrain Tehsil Jammu now Nagrota.

(Petitioners)

Versus

1. Sanjay Singh S/o Kamal Singh
2. Leela Devi Wd/o Kamal Singh
R/o Topsherkhania Tehsil Jammu District Jammu

(Respondent)

In the matter of: Revision petition under Section 15 of the Land Revenue Act, 1996 (1939 A.D.) against the order passed on inheritance mutation No.8807 dated 19-05-2004 in respect of land bearing Khewat No.6 of Topsher Khania of Tehsil and District Jammu which is attested by the Naib Tehsildar Jammu against the specific provisions of Hindu Law (Hindu Succession Act), hence illegal – prayer for setting aside the same.

ORDER

1. The present petition has been filed in terms of Section 15 of the Land Revenue Act, 1996 (1939 A.D.) against the order passed on inheritance mutation No. 8807 dated 19-05-2004 in respect of land bearing Khewat No.6 of Topsher Khania of Tehsil and District Jammu which has been attested by the Naib Tehsildar Jammu.
2. The brief facts of the case are that:

ml

- i. One Parveen Singh was the owner of the land situated at village Tophsher Khania Jammu. After his death the landed property was devolved upon his legal heirs by way of mutation of inheritance mutation No. 8807 dated 19-05-2004.
- ii. Kamal Singh S/o Praveen Singh father of petitioners herein and respondents No.1 and husband of respondent No.2 also got share in landed estate of Parveen Singh.
- iii. After the death of Kamal Singh his landed property got devolved only upon respondents herein by way of mutation No. 8807 dated 19-05-2004, excluding the petitioners.
- iv. Feeling aggrieved of the order passed on mutation No. 8807, the petitioners have filed the present petition on the grounds:
- a) That the impugned mutation No. 8807 dated 19-05-2004 has been attested by Naib Tehsildar Jammu against the specific provisions of Law.
- b) That the land under question was in the ownership of Late Sh. Kamal Singh along with his brothers by virtue of inheritance mutation attested in their favour after the death of their father Sh. Parveen Singh. The sons namely Kamal Singh and Sham Singh have since died.
- c) Kamal Singh died leaving behind his legal heirs, which is evident from the pedigree table given as under:

Kamal Singh				
Sanjay Singh (S)	Chander Pal Singh (S)	Yesh Pal Singh (S)	Neelam (D)	Leela Devi (Widow)

W

- d) That under the Hindu Succession Act, 1956 when a Hindu male dies, his property devolves upon his sons, daughters and the widow. But in the present case the Naib Tehsildar Jammu attested the impugned mutation only in favour of respondents No.1 & 2 ignoring the petitioners from their legal rights without any reason whatsoever.
- e) That the impugned mutation has been attested at the back of the petitioners without providing them opportunity of being heard, against the principle of natural justice and equity.
- f) That the attesting officer has given undue benefit to respondents No.1 & 2 to which they are not legally entitled.
- g) That under Section 15 of the Land Revenue Act, this Court has powers to set aside any illegal order passed by the subordinate officers. In this section no time period has been prescribed for filing the revision petition.
3. The case came up for hearing. Petitioner, along with Counsel were present. Respondents were also present in person.
4. Counsel for petitioner pleaded that they are the legal heirs of Sh. Kamal Singh (deceased) and mutation of inheritance has been attested only in favour of respondents depriving the petitioners of their legal rights. He cited voter list & ration card in support of their claim. He prayed setting aside of the mutation impugned.
5. Respondent No.2 made statement in the open court that petitioners & respondent No.1 are her children, and that she has no objection if petitioners are included in the mutation of inheritance.
6. I have heard the parties. Mutation impugned has been perused which reveals that the landed estate of Sh. Kamal Singh (deceased) has been devolved only upon respondents herein, and the petitioners have been

me

deprived of their legal rights over the landed property left by deceased Sh. Kamal Singh.

7. The attesting officer should have enquired about the Legal Heirs of Late Sh. Kamal Singh but he did not conduct such an inquiry and passed the order at the back of petitioners which is against the basic principle of natural justice. The mutation impugned is against the provisions of Land Revenue Act & deserves to be set aside.

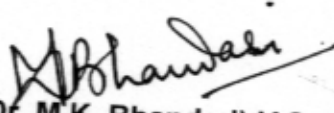
8. Further the presence of respondent No.2 in this court and her statement that she has no objection if the petitioners are included in the mutation of inheritance of Late Sh. Kamal Singh vindicates the stand of the petitioners and aims at resolving the dispute between the parties.

9. In view of what has been discussed above, this court is of the opinion that when the respondents have no objection in the names of petitioners being included in the mutation of inheritance, the petition deserves to be allowed, the mutation under challenge set aside and the case remanded to Tehsildar Jammu for attestation of fresh mutation of inheritance of Late Kamal Singh in favour of all his successors.

10. Accordingly, the case under Section 15 (3) of Land Revenue Act is submitted to Ld. Financial Commissioner (Revenue) J&K, Jammu for confirmation.

11. Both the parties shall appear before Ld. Financial Commissioner (Revenue), J&K, Jammu on 26-09-2017 for further proceedings.

Announced
01.09.2017


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