

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU  
Present:- Dr. Raghav Langer, IAS

File No.

06/appeal  
2016-17

Date of Institution

20-04-2016

Date of Decision

07-01-2022.

Inderjeet Sharma S/o Saroop Singh R/o Hanjana Tehsil Nowshera District  
Rajouri.

.....Appellant

Versus

1. State through SDM Nowshera

2. Suresh Chander S/o Waryam Chander R/o Hanjana Tehsil Nowshera  
District Rajouri.

...Respondents

**IN THE MATTER OF :-**

Appeal against order dated 15-02-2016 passed by  
SDM Nowshera whereby the Court below has  
ordered eviction of appellant from common pathway  
and land measuring 04 Kanal 07 Marlas bearing  
Khasra No. 359 situated at village Hanjana  
Thakaran, Nowshera. Prayer for setting aside the  
same

**Appearing Counsel:-**

Advocate G.C Sharma for the appellant

ARA for the State.


*[Signature]*



### **J U D G M E N T**

The present appeal has been filed by the appellant against order dated 15-02-2016 passed by SDM Nowshera whereby the Court below has ordered eviction of appellant from common pathway and land measuring 04 Kanal 07 Marlas bearing Khasra No. 359 situated at village Hanjana Thakaran, Nowshera. The assertions contained in the petition are:

1. That the order impugned is illegal and unsustainable in the eyes of law as such is liable to be set aside.
2. That the land measuring 04 Kanals 07 Marlas bearing Khasra No. 359 situated at village Hanjana Thakaran, Nowshera, Rajouri is recorded Gair Mumkin Jar in the revenue record pertaining to the land in question.
3. That the father of appellant being refugee was allotted land abutting to the suit land and the suit land was being used by the appellant's father and also the appellant for the exclusive purpose of getting fuel and fodder for them and for their cattle.
4. That SDM Nowshera has directed the revenue official to demarcate the suit land for the purpose of carving out a pathway from it. When the appellant objected to the proceedings being conducted on spot by the revenue agencies, he was informed that the order for evicting the appellant has been passed by the SDM Nowshera and in case the appellant interferes into the proceeding he would be forcefully thrown out with the aid of Police present on spot.
5. That the impugned order passed by SDM Nowshera is illegal, arbitrary and against the provisions of law and facts of the case as such is liable to be set aside.





On presentation of the appeal, respondent was put to notice for filing response. Respondent No. 2 has filed his response.

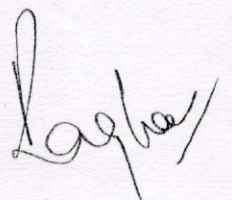
**Ld. Counsels, for the petitioner put forth his oral arguments,** which are in line with the memo of the appeal.

ARA for the State submitted that the land under dispute is a State land and as per revenue record, appellant are illegal occupants over the said land measuring 04 Kanals 07 Marlas under Khasra No. 359, since the revenue record (Girdawari) clearly shows that the entry is in the name of State (Sarkar). The appellant has till date failed to produce any proof to substantiating his claims.. Tehsildar Nowshera was obligated to act as per the orders of SDM Nowshera and as such he has rightly initiated eviction proceedings against the appellant from the said land. Therefore, prayed for rejection of the present appeal.

**Held:**

**I have applied thoughtful consideration to the whole matter, examined the record and attentively heard the Ld. Counsel for the appellant, it emerges that the nature of the case is such that the entire matter requires an insightful judicial determination.**

From the bare perusal of record, it is evident that appellant has illegally encroached the State land measuring 04 Kanals 07 Marlas of land under Khasra No. 359 situated in villate Hanjana Thakkra Tehsil Nowshera District Rajouri, since the revenue record clearly shows that the entry is in the name of State (Sarkar). Therefore, appellant has no title ship and rights over the said suit land. Besides the appellant has failed to produce any proof substantiating his claim that the said land was allotted to his father being a refugee. His said claim never reflected in the revenue record any where. Therefore, the order of Sub Divisional Magistrate, Nowshera vide No.



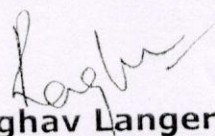


SDM/LR/NSR/84 dated 15-02-2016 is upheld and the present appeal is dismissed.

Interim directions, if any, passed by this Court shall stand vacated. File be consigned to record after its due compilation. Record file, if any, received from the Court below shall be sent back.

**Announced**

07-01-2022.

  
**Dr. Raghav Langer, IAS,  
Divisional Commissioner,  
Jammu.**