



- i. That the Tehsildar Kathua has attested the mutation in favour of the respondents against the provisions of law and the Land Revenue Act.
- ii. That the Tehsildar Kathua has attested the mutation in favour of the respondent No. 2 without verifying the revenue record and without complying the provision of law.
- iii. That the land measuring 1 kanal 7 marlas which has been attested in favour of the petitioner under Sections 4/8 of the Agrarian Reforms Act which could neither be sold out nor transferred in favour of any person. The respondent No. 1 and 2, in connivance with the Revenue authorities and Patwari concerned manipulated the documents of the land which is ancestral property of the petitioner. Under the garb of false and frivolous sale deeds which have been prepared on the basis of false revenue record, in order to grab the land of the petitioner i.e. 1 kanal 7 marlas, were attested under Sec. 4/8 of the Agrarian Reforms Act.
- iv. That the Tehsildar has attested the mutation in favour of the respondent No. 2 on the basis of false and frivolous revenue record prepared by the concerned Patwari and attested by the Naib Tehsildar at the back of the petitioner and without affording him any opportunity of being heard.
- v. That the Tehsildar Kathua has exercised erroneous jurisdiction which was not vested in him and has passed the order of mutation with illegal material and irregularities, and as such the Mutation order dated 21.05.2015 passed by Naib Tehsildar Kathua deserves to be set aside.

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2. Counsel for respondents filed objections/ written arguments on maintainability of the petition on the grounds that:

- i. That the petitioner has challenged the mutation No. 5526 dated 23.09.2013 attested by Tehsildar Kathua in favour of respondent No. 2 on the basis of Sale Deed duly registered dated 03.09.2013 by the Sub-Registrar Kathua.
- ii. That the Sale Deed Executed by the power of attorney holder respondent No. 1 i.e. Hari Krishan of the petition, and the petitioner was himself present at the time of registration of Sale Deed. The petitioner has put his signatures and finger prints on the Sale Deed in token of this acceptance.
- iii. That any documents which are duly registered in accordance with the Registration Act come under the jurisdiction of the Civil Court and not within the jurisdiction of Revenue Court if any dispute arises in respect of Registered documents. Therefore, the Revenue Officer i.e. Tehsildar Kathua correctly passed the order on the said mutation in accordance with Law and no illegality has been committed by the Tehsildar while attesting the mutation and, accordingly, the present revision petition deserves to be dismissed.
- iv. That the entry in the mutation register carries no finality with it. It is an entry made after summoning-local enquiry and is subject to correction or alteration in accordance with facts ascertained by Revenue Officer or proved in Civil Court. In this case it has been further held that the factum and validity of Adoption Deed is cognizable by Civil Court and not by the Revenue Court.
- v. In case titled Mst. Fata V/s State of J&K and others, reported in 2007 (1) SLJ P 342, it has been held by the Hon'ble High Court J&K at Srinagar that the mutation does not create/ confer any right or

convulsive proof of title. Revenue Officers are under the legal obligation to implement the Court's order/ decrees in terms of para 103 of Standing Order 23-A.

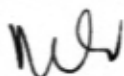
- vi. The Revenue Officers cannot question the registered Sale Deed and are bound to implement the same. It is not the function of Revenue officer to sit in judgement over the genuineness of the document. The question of genuineness of a registered deed is within the competency of the Civil Courts. The Revenue Officer has not option except to rely upon the registered document and to give effect of the same in revenue record by way of mutation. Here, in this case, the mutation officer legally gave effect to the sale deed duly registered by the Registering Authority in the case titled Hari Dass V/s Mohan Dass 1973 PLJ 78.
- vii. In another case titled Bisra Stone Lime Co. Ltd. V/s Raja Mohammad Afzal Khan and others 1941 LLT 11 it has been held that:

**"It is the duty of the Revenue Officer in mutation proceedings to give effect to the document as made and registered. If there has been a mistake, the mistake can be rectified not by a Revenue Officer in mutation proceedings but only by a Civil Court.**

- viii. Hon'ble Financial Commissioner (Revenue) J&K State in a case title Mohd. Sharif V/s Shankar Dass and others vide order dated 01.04.2003 has held as under:

**"Order of a civil court is always binding on the revenue courts."**

- ix. The Ld. Financial Commissioner (Revenue) Jammu and Kashmir at Jammu has held in a case title Himmat Singh and others V/s Vir Singh and others vide order dated 17.09.1993 on file No. 98 dated 12.11.1990 as under:



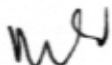
**"That when mutation has been attested on the basis of registered document, then there is no violation of rules contained in Standing Order No. 23 (Mutations)."**

- x. The Ld. Financial Commissioner (Revenue) cum Commissioner Agrarian Reforms, J&K, Jammu in an appeal titled Sh. Krishan Gopal Puri V/s Sh. Madan Gopal Puri & anr., on 11.08.2009 has held as under:

**"The impugned mutation No. 2011 had been attested on the basis of a registered document and any action which had been attested on the basis of a registered document can only be questioned after challenging and getting the registered document nullified/cancelled by a Civil Court."**

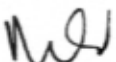
- xi. That the petitioner has alleged in the memo of the petition that the respondent No. 1 has forged the registered Power of Attorney given by the petitioner to the respondent No. 1. The Respondent has submitted that the certified copy of a Power of Attorney duly registered on 16.02.2013 has been taken from the Registering Authority on 09.06.2016.
- xii. There is no difference/ overwriting in the power of attorney as alleged by the petitioner. The photocopy annexed with memo of the petition by the petitioner is word by word same as the copy secured from the Registering Authority in the month of June, 2016. As such the petitioner is telling lie and petition deserves to be dismissed.

The Respondent has submits that the Power of Attorney is a Registered Deed which come under the jurisdiction of a Civil Court. In case any dispute arises in this regard, the same shall come under the purview of the Civil Court, and the Revenue Court does not have jurisdiction to adjudicate its legality or otherwise.





- xiii. In para No. 6 of Power of Attorney, the respondent No. 1 has been clearly authorized to sell the land. As such, the petitioner has again alleged wrongly that the respondent No. 1 was not authorized by the petitioner to sell the land. Therefore, the petitioner has told lie and has also sworn in wrong affidavit.
3. The case came up for hearing. Vimal Kumar son of the petitioner is present in person. He submitted that the petitioner has filed the written arguments and further stated that the mutation under challenge has been attested on the basis registered documents i.e. Power of Attorney executed by petitioner in favour of respondent No. 1 and that the revenue officer has just complied with and implemented the Court's order in terms of para 103 of Standing Order 23, and has not violated any provisions of the Act.
4. It is further pleaded that petitioner, if aggrieved, of the registered documents on the basis of which the mutation impugned has been attested may approach the proper forum i.e. the Civil Court.
5. I have gone through the memorandum of petitioner and heard the counsel for the respondent. Written arguments of respondent have also been gone through. The record has been examined. **It reveals that the dispute is with regard to mutation No. 5526 dated 21.05.2015 by virtue of which the rights over 1 kanal of land and Khasra No. 801 min of Taraf Tajwal Ward No. 2 Tehsil & District Kathua within the Municipal Limits of Kathua has been conferred upon respondent No. 2, whereas the petitioner has mentioned the date of attestation of mutation as 23.09.2013 and has agitated that the area under question is 1 kanal 7 marla of land.**
6. The following specific contentions of the petitioner were also considered:
- i. That he is an old man of 80 years and an illiterate person who got influenced by the respondent No. 1 in good faith, and without



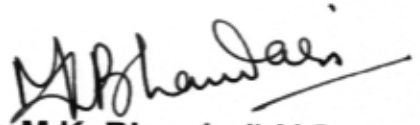
understanding his malafide intentions, appointed him as his lawful attorney holder with regard to the above said land.

- ii. The respondent No. 1, without the knowledge and the permission of the petitioner, executed sale deed of land measuring 1 kanal out of khasra No. 801min in favour of the respondent No. 2 dated 04.09.2013 which was duly registered with Sub Registrar Kathua on 04.10.2013 and land measuring 7 marlas Khasra No. 801 min situated at Taraf Tajwal Tehsil and District Kathua was duly registered in the Sub Registrar Kathua on 05.10.2013.
- iii. That the petitioner is also the owner in possession of the land bearing Khasra No. 801 measuring 1 kanal 7 marlas situated at Taraf Tajwal and this land has been mutated in his favour under Sections 4/8 of Agrarian Reforms Act, after due attestation.

- 7. So far as order passed on mutation impugned is concerned, this court is of the opinion that mutation has been attested on the basis of registered sale deed presented before the attesting Authority.
- 8. Further, the plea of the petitioner that he has not been provided opportunity of being heard has no legal force, as his attorney holder has executed the sale deed, and the attesting Authority has attested the mutation on the basis of registered sale deed only. The petitioner, if aggrieved of the sale deed, is free to approach the competent forum in this regard.
- 9. With regard to contention of petitioner that he had got rights over the land in question under Sections 4/8 of Agrarian Reform Act, and the same could not have been sold out or transferred, it has been noted that petitioner has himself executed Power of Attorney in favour of respondent No.1 and has authorized him for various purposes including sale of the said land. Now his raising the issue before this court, is not tenable.

10. In view of the above facts and circumstances and law point involved in the matter this Court has come to the conclusion that the present petition has no merit and is thus dismissed.
11. Stay issued if any, shall stand vacated. The case file be consigned to records after due completion.

*Announced*  
*25.8.2017*

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