

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C) No. 05/1998

Mst. Kukli & Others.

...Petitioner(s)/Appellant(s)

Through: Mr. Zahoor Ahmad Shah, Advocate.

Vs.

Sushil Kumar.

...Respondent(s)

Through: None.

CORAM:

HON'BLE MR. JUSTICE ATUL SREEDHARAN, JUDGE

ORDER

22.12.2023

1. The present petition has been filed by the petitioners who challenge the order dated 08.12.1989 passed by the Court of the Joint Agrarian Reforms Commissioner, Kashmir, wherein the appeal filed by the respondent herein was allowed and the mutation attested in favour of the petitioner herein was set aside. Against the said order, the petitioners preferred a revision before the Special Tribunal, Srinagar, which by the second impugned order dated 13.12.1996 dismissed the revision. The revision order is perfunctory and reads as hereunder:

“This revision has been directed against the order of JAC dated 08.12.1989. the order of JAC has been examined. The JAC has found in his decision that the present petitioner had managed attestation of mutation in his favour in absence of the other party and in violation of the rules as laid down in the standing order. The Mutation Officer i.e., Tehsildar Agrarian, Pattan had passed these orders at the back of the effected party. This clearly means that he had not held any enquiry nor

he had summoned the respondents, therefore, the order of the JAC does not call for any interference.”

2. The said order according to the petitioner was passed exparte.

Against the order dated 13.12.1996, the review was filed which was also dismissed vide the order dated 05.11.1997 which reads as hereunder:

“The review application has been considered. The original order has been passed on 13.12.1996 and the review application has been submitted on 01.10.1997. The learned counsel has stated in the revision application that the Tribunal has decided the revision on 13.12.1996 in ex-parte, i.e. to say without hearing the parties and so the facts have not been brought to the knowledge of the Tribunal. The grounds of review have been considered. In my considered opinion, the order dated 13.12.1996 cannot be reviewed because the order dated 13.12.1996 indicates that orders in favour of present petitioners were passed at the back of respondents Smt. Bimla, Smt. Mehi and Satish Kumar. The order was found to have been managed by Karim Gujree and so JAC had set aside the orders of Tehsildar. This Tribunal need not interfere in such orders which are perfectly legal and sustainable under law. The review application is therefore, meritless and is dismissed.”

3. Learned counsel appearing for the petitioner has submitted that the order passed in revision was exparte though the order does not specifically so mentioned. However, the application for review took a plea of the revision having been dismissed as exparte and which has been observed also in the order dated 05.11.1997. The order dated 13.12.1996 does not take into consideration any of the contentions of the petitioners which they had raised in the revision petition and has been passed in a perfunctory manner. The order passed in the review application dated 05.11.1997, likewise is perfunctory and does not even refer in reasonable detail to the facts of the case also.

4. Under the circumstances, the present petition is *disposed of* by setting aside the order dated 05.11.1997 passed in review and order dated 13.12.1996, which was passed in revision and the case is remanded to the Special Tribunal, Srinagar, for consideration afresh after hearing both sides.
5. The respondent in this case has not appeared despite various opportunities having been granted and having proceeded as exparte on 17.11.2021.
6. This petition is disposed of in the aforementioned terms.

(ATUL SREEDHARAN)
JUDGE

SRINAGAR:
22.12.2023
Shaista

