

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**CM(M) 367/2023
CM(8072/2023)
Caveat 2692/2023**

Vicky Dhar and Ors.

...Petitioner(s)

Through: Mr. Zahoor A. Shah, Advocate.

Vs.

Vijay Kumari and Anr.

...Respondent(s)

Through: Mr. Ahmad Javid, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE.

**ORDER
27.12.2023**

01. Heard learned counsel for the parties. Caveat stands **discharged**.

02. This petition filed purportedly under Article 227 of the Constitution of India is directed against an Order dated 19th October, 2023 passed by the learned Financial Commissioner (Revenue), J&K, whereby the revision petition filed by the petitioners herein against the Mutation No. 2935 dated 7th March, 1998, in favour of respondents, has been dismissed.

03. From reading of the impugned order of the learned Financial Commissioner (Revenue) J&K, it transpires that the revision petition has been dismissed primarily on the ground of limitation but the learned Financial Commissioner (Revenue), has also gone into the merits of the mutation. From further reading of the impugned order, it is evident that the Naib Tehsildar concerned has attested the mutation on the basis of registered will deed executed by Late Somanth Dhar in favour of the respondents. This mutation was attested as far back as 7th of March, 1989 and a revision to challenge the same was instituted before the learned Financial Commissioner (Revenue) J&K, on 27th December, 2017 i.e. after a gap of 28 years. The learned Financial Commissioner (Revenue) J&K, has noted that the petitioner

has nowhere indicated the date of acquiring the knowledge of the mutation nor he has been able to explain such a huge delay of 28 years.

04. On merits, the learned Financial Commissioner (Revenue) J&K, has noted that since registered will deed was presented before the Naib Tehsildar, as such, he had no option but to attest the mutation in accordance with such will, after holding only a summary inquiry into the matter.

05. As is rightly pointed by the learned counsel for the petitioners, the petitioners have already challenged the will executed by Late Somnath Dhar in favour of the respondents in a civil suit pending before the Court of learned Sub Registrar (Munsiff), Srinagar.

06. It is well settled that mutation entries are only fiscal in nature and do not confer any title in respect of property to which they relate nor do these entries extinguish the right of a party *qua* such property. These entries are always subject to the decree of the civil court. The will on the basis of which mutation impugned before the Financial Commissioner (Revenue), J&K, has been attested, is subject matter of challenge in the civil suit. The judgment and decree of the civil court will have overriding effect on the mutation, which was subject matter of challenge before the learned Financial Commissioner (Revenue), J&K.

07. For the foregoing reasons, I find no reasons or justification to interfere with the order of the learned Financial Commissioner (Revenue), J&K. The petition on hand is found to be without any merit and the same is accordingly dismissed.

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
27.12.2023
“Hamid”