

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPMS No2789 of 2023 And WPMS No2792 of 2023 <u>Hon'ble Sharad Kumar Sharma, J.</u> Mr. T.P.S. Takuli, learned counsel for the petitioner. Mr. Anil Kumar Dabral, learned Addl. C.S.C. for the State. These are two writ-petitions in which the petitioner contends that he was an occupant of land lying in Khata No.36, Gata No.32 Min presently bearing Gata No.430, measuring 0.1000 hectare land, Village Kalyanpur, Tehsil Sitarganj, District Udham Singh Nagar, where he was recorded as to be a श्रेणी-4 Kastkar in the fasli year 1384 to 1389. There has been a proceeding drawn by way of Case No.624 of 2008-09, "State Vs. Jai Shree" being the proceedings under Section 54 of the Land Revenue Act, in which it is contended, that in accordance with the report of the Assistant Naib Tehsildar, Sitarganj dated 30.06.2009, parties have, ultimately, entered into a compromise. In the event of a compromise, if at all has been entered into between the parties, the recourse available to the petitioner, would be to get himself recorded in revenue records, in accordance with paragraph no.39 of the U.P. Revenue Court Manual but before that could be done, it is alleged by the

			petitioner, that the respondent in collusion with the revenue authorities got himself converted into શ્રેણી-1 and, it is based on this grievance of recording of the respondent in શ્રેણી-1, that he has preferred a writ-petition for the following relief(s):- <i>“i) Issue a writ, order of direction in the nature of mandamus directing the respondent no.2 to decide the petitioner’s representation dated 30.01.2023 & 07.01.2023 submitted by the petitioner by passing appropriate order with reasoned and speaking order as the respondents have slept over the matter and illegally recorded the land belonging to the petitioner, in favour of the respondent no.4, as the petitioner is poor farmer, having limited holding for his and his family’s livelihood, else the petitioner shall suffer irreparable loss and injury and the same cannot be compensated by any means..(Annexure no.1 to the writ petition).</i> <i>ii) Pass such further orders or directions which are just and proper in the facts of the case.”</i> The revenue law is covered by Schedule-7, List-II, Entry-45 and the provisions contained under the Zamindari Abolition Act governing the field of determining the rights in relations to the land falling under Section 3(14) of the said Act has to be strictly governed by the Statutory provisions and not by virtue of a representation as it has been sought to be decided by the petitioner in the instant writ-petition, that too by issuance of writ of mandamus. The argument that for the purpose of issuance of a writ of mandamus, it is only a representation, which is to be decided, is absolutely a misconception, because representation would only be a subject, which could be decided under
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		Article 226 of Constitution of India, subject to the condition that it is contemplated under law and is statutorily provided. Mandamus could have decided a right on merits. But when a right on merits, in relation to a landed property falling under Section 3(14) of the Zamindari Abolition Act, itself is required to be regulated by the special provisions contained under the revenue law, the nature of the relief, as sought in the writ-petition, would not be tenable. The petitioner would have to work out his remedies for deletion of the name of the private respondent, from the revenue records who has been recorded as श्रेणी-1 in the revenue records, in accordance with the procedure, prescribed under the Zamindari Abolition Act. Since no mandamus could be issued for deciding the non-statutory representation could be issued, accordingly, the writ-petition is dismissed, subject to the aforesaid liberty. In WPMS No2792 of 2023 the controversy pertains to the land lying in Khata No.36, Gata No.32/3/6, presently Gata No.349Gha measuring 0.7740 hectare land in Village Kalyanpur, Tehsil Sitarganj, District Udham Singh Nagar, in which the petitioner contends, that he was recorded as श्रेणी-4 Kastkar in the fasli year of 1384 to 1389. In this case too, there had been a corresponding proceedings under Section 54 of the Land Revenue Act, registered as Case No.624 of 2008-09, “State Vs. Jai Shree” which was decided,
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on the basis of the report submitted by the Assistant Naib Tehsildar on 30.06.2009, whereby the compromise was entered into and it is based upon almost on akin circumstances, that the respondent is said to have got himself recorded as श्रेणी-1 Kastkar over the land, as prescribed hereinabove.

For deletion of the name of the respondent, recorded as Shreni-1, the recourse which would be available to the petitioner, in accordance with the provisions of the Zamindari Abolition Act and not by way of filing of a writ-petition seeking a writ of mandamus to decide the non-statutory representation. Mandamus to decide the non-statutory representation would only lie when the representation itself is not contemplated under the law governing to the field of controversy raised in a writ-petition.

Thus, the writ-petition is dismissed, subject to the liberty that the petitioner may resort to his appropriate remedy, as provided under the law, for determination of his right or for putting a challenge to the entry recorded in the name of private respondent in श्रेणी-1(ख).

(Sharad Kumar Sharma, J.)
05.10.2023