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Regular

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

WP(C) 2066/2024

ABDUL AZIZ ….. Petitioner (s)

Through: Mr. Hamza Prince, Adv.
vice Mr. M Y Bhat, Sr. Adv.

V/s

UNION TERRITORRY OF J AND K AND ORS ….. Respondent(s)

Through: Mr. Illyas Laway, GA

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

16.11.2026

1. The petitioners are aggrieved of order No. DCA/SQ/18/2230-33 dated 11.02.2019, passed by the Additional Deputy Commissioner, Anantnag, whereby mutation Nos. 2120 and 2495 with respect to Survey Nos. 2085 min and 3663/2085 min of Village Pati Baghwanpora Verinag, have been set aside and the matter has been remanded to the Tehsildar, Qazigund, for conducting a *de novo* enquiry and attestation of fresh mutation besides rectification of Girdwari entry with respect to Survey No. 3663/2085 min.

2. According to the petitioners, they are owners in possession of land measuring 03 kanals and 10 marlas, falling under Khasra No. 3663/2085, situated at Baghwanpora, Verinag. The said land is stated to have devolved upon the petitioners through their ancestors, namely, Abdul Gani and Abdul Khaliq, in whose favour mutations under Sections 4 and 8 of the Agrarian Reforms Act came to be attested pursuant to mutation Nos. 2120 and 2495.
3. It is the contention of the petitioners that the aforesaid mutation orders have been set aside by respondent No. 3 without hearing them and without issuing notice to them while dealing with the case relating to encroachment made by one Ali Mohammad S/o Sonaullah on the land of the Irrigation Department. It has been submitted that the aforesaid mutation orders ought not have been set aside by the Additional Deputy Commissioner without hearing the petitioners.
4. The respondents have filed their reply to the wit petition in which while reiterating the contents of the impugned order, it

has been submitted that upon inquiry it was found that in the revenue extracts of Girdawari of 1971, the petitioners or their predecessors were not recorded in cultivating possession which is a prerequisite for attestation of mutation under Sections 4 and 8 of the Agrarian Reforms Act. Therefore, the Enquiry Team rightly pointed out that both the mutation orders had been attested against the spirit of the Agrarian Reforms Act.

5. Heard learned counsel for the parties and perused the record
6. In the present case, by virtue of the impugned order i*nteralia*, the mutation orders attested in favour of the petitioners/their ancestors under Sections 4 and 8 of the Agrarian Reforms Act have been set aside. Before setting aside mutations attested under Section 4 and 8 of the said Act the Revenue Officer was obliged to take note of the provisions contained under section 4-A of the Agrarian Reforms Act. As per the said provision, cancellation of a mutation attested under Sections 4, 8 and 12, in respect of any land mentioned in Section 3 or Sub Section (2) of Section 4, is void ab initio. The said

provision has an overriding effect even on the judgment of a Civil Court.

7. Learned counsel for the respondents has submitted that, the land in question is not the land as defined under Agrarian Reforms Act, as such, Section 4-A of the Agrarian Reforms Act would not get attracted. The contention appears to be without any merit because in the impugned order the Revenue Officer has not even adverted to this aspect nor has any finding to the effect that the land in question does not come within the purview of Agrarian Reforms Act has been recorded by the Officer.

8. As per sub-section (2) of Section 19 of the Agrarian Reforms Act, the powers of the Revenue Officers appointed under the said Act are to be regulated by the provisions of the J&K Land Revenue Act. As per Section 13 of the Land Revenue Act, the Revenue Officers have been vested with the power of review, and as per Section 15 of the said Act, the Financial Commissioner and the Divisional Commissioner have been vested with revisional powers. The power of review and

revision can be exercised by the relevant authorities even suo moto. However, provisions contained in Sections 13 and 15 make it clear that if any order is made adverse to a party while exercising the power of review or revision, the affected party is required to be put on notice and afforded an opportunity of being heard.

9. In the present case, a bare perusal of the impugned order would reveal that no notice was issued to the petitioners nor was any opportunity of hearing afforded to them before setting aside the two mutation orders attested under Sections 4 and 8 of the Agrarian Reforms Act. Thus the impugned order to the extent of setting aside of mutation orders attested in favour of the petitioner is not sustainable in law.

10. There is yet another aspect of the matter that is required to be noticed. The mutation orders attested under the provisions of Agrarian Reforms Act can be reviewed/revised only by the authorities vested with jurisdiction under the Act. It is not clear whether the Additional Deputy Commissioner has exercised his powers as Commissioner under the Agrarian

Reforms Act or as an authority under the Land Revenue Act, while passing the impugned order dated 11.02.2019. If the order setting aside the aforesaid mutations has been passed by the Additional Deputy Commissioner in his capacity as an authority under the Land Revenue Act, the same would be without jurisdiction. This aspect of the matter is to be taken note of in case the respondents decide to reopen the issue with regard to the attestation of mutation in favour of the petitioners.

11. For what has been discussed hereinabove, the impugned order, to the extent of setting aside mutation Nos. 2120 and 2495, attested under Sections 4 and 8 of the Agrarian Reforms Act, in favour of the petitioners / their ancestors are set aside. However, the respondents are at liberty to proceed afresh in the matter in accordance with law and in light of observations made hereinbefore.

(Sanjay Dhar)
Judge

SRINAGAR
16.11.2026
Showkat Khan