

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

Case: WP(C) No. 598/2024

Darshana Devi and ors.

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

Through: Mr. D K Khajuria, Advocate.

V/s

Union Territory of J&K and ors.

.... Respondent(s)

Through: Ms. Nazia Fazel, Assisting counsel to
Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
30.12.2024

01. Naib Tehsildar Kathua by virtue of an order dated 18.05.2001 came to order correction of khasra girdawari entry Rabi 2001 with respect to survey No. 257 min by way of Fard Badder proceedings in favour of the petitioner herein as against the recorded owner Anchal Dass who upon coming to know about the change of girdawari entry in favour of the petitioners come to maintain an appeal before the Assistant Commissioner Revenue with powers of Collector Agrarian Reforms Kathua on file No. 176/ACR of 2003 resulting in upsetting of the impugned order of Naib Tehsildar Kathua in terms of order dated 23.09.2003 which came to be questioned in further appeal by the legal representatives of the Ram Krishan beneficiary of the impugned order of Naib Tehsildar before the Regional Director Survey and Land Record (Ex. Officio Settlement Officer) Udhampur which appeal failed in terms of order dated 30.01.2024 after having remained on docket for almost 20 years.

02. It is against this outcome that the petitioners being legal representative of Ram Krishan have come forward with the present petition under article 226 of the Constitution of India.

03. In this case, the service of private respondents i.e., respondent Nos. 5 to 9 as being legal representative of Anchal Dass the original appellant before the Assistant Commissioner Revenue /Collector Agrarian Reforms Kathua is yet to take place.

04. Learned counsel for the petitioners refers to the fact that the Assistant Commissioner Revenue by no stretch of reasoning is an appellate authority under the Agrarian Reforms Act 1976 or for that matter even under Land Revenue Act Svt. 1996 viz-a-viz an order of Naib Tensildar Kathua, and therefore, the very original order dated 23 September 2003 is a nullity right from its inception and therefore, the petitioner would be rendered non-suited in the matter in case the operation of the impugned order is allowed to take effect pending final adjudication of this petition.

05. Needful to be done in terms of order date 20.03.2024 is said to have been carried out by the petitioner by filing an application being CM No. 5527/2024 by placing on record the order of Naib Tehsildar which resulted in change of khasra girdawri in the favour of the petitioners.

06. Prima facie case is made out.

07. Notice to the respondents.

08. Ms. Monika Kohli, learned Senior Additional Advocate General accepts notice on behalf of respondent Nos. 1 to 4.

09. Objections/response to the petition by or before the next date with an advance copy thereof to the other side.

10. Notice only to respondent Nos. 5 to 10.
11. Petitioners to submit registered postal covers within seven days whereupon notice to the respondent No. 5 to 10 be issued by the Registrar Judicial Jammu.
12. List on 24th February 2025.
13. Till next date of hearing, the operation of impugned order to remain stayed.

(RAHUL BHARTI)
JUDGE

Jammu
30.12.2024
Sunita/PS

