

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No. 438/11

Revision Petition under section

72 of The Delhi Land Revenue Act, 1954,

In the matter of :-

- 1. Sh. Dheeru Singh S/o Sh. Surjan Singh**
- 2. Sh. Rattan Singh S/o Sh. Surjan Singh**
- 3. Sh. Chand Singh S/o Sh Dayanand**
- 4. Smt. Santosh D/o Sh Dayanand**
- 5. Smt. Nirmala D/o Sh Dayanand**
- 6. Smt. Darshna D/o Sh Dayanand**
- 7. Smt. Manisha D/o Sh Dayanand**
- 8. Sh. Vijaypal S/o Sh Rattan Singh**
- 9. Sh. Narender S/o Sh. Prahalad**
R/o 1269, VPO Mahipal Pur, Delhi-37
- 10. Smt. Kamlesh W/o Sh. Vijay Pal**
- 11. Smt. Kamla W/o Sh. Rattan Singh**
- 12. Smt. Dhan Kaur W/o Sh. Dayanand**
- 13. Sh. Satish S/o Sh. Dheer Singh**
- 14. Sh. Mukesh S/o Sh.Dheer Singh**
- 15. Sh. Manish S/o Sh. Dheer Singh**
All R/o Vill & P.O. Tajpur Kalan Delhi-110040 ...Petitioners

Vs

- 1. Sh. Ishwar Singh S/o Sh. Dungar**
All R/o Vill & P.O. Tajpur Kalan Delhi-110040
- 2. Sh. Pawan S/o Sh. Maha Singh**
R/o Village Bohar, Distt. Rohatak (Haryana) ...Respondents

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 09th July, 2015

1. This Order shall dispose off the Revision Petition filed under Section 72 of the Delhi Land Revenue Act, 1954 against the impugned Order dt. 27.06.2011 passed by Naib Tehsildar in Mutation case No. N-1483/2010-11 titled as Dhir Singh & Ors. Vs Ishwar Singh etc. thereby setting aside his own order dt. 30.05.2011 in respect of 1/2nd share in land bearing Khasra no. 2/13(4-10), 14, 16, 17(4-16) each 15(2-6), 18(4-16) 25/10/1(2-3), 26(0-4), 26/6(2-8), 16/1(0-8) total measuring 31 bigha 03 bishwa of village Tajpur Kalan, Delhi.
2. Brief facts of the case are that the petitioner purchased 1/2nd share in land bearing Khasra no. 2/13(4-10), 14, 16, 17(4-16) each 15(2-6), 18(4-16) 25/10/1(2-3), 26(0-4), 26/6(2-8), 16/1(0-8) total measuring 31 bigha 03 bishwa of village Tajpur Kalan, Delhi vide registered sale deed dated 18.04.2011 and thereafter petitioner applied for mutation and the then Naib Tehsildar after following due procedure recorded/sactioned mutation vide his order dt. 30.05.2011 and the same was duly implemented in revenue records.
3. However, on 22.10.2011 the petitioner came to know that mutation order sanctioned by Naib Tehsildar has been set aside by subsequent order dt. 27.06.2011 by the same Naib Tehsildar. Hence, the order of Naib Tehsildar dt. 27.06.2011 vide which he

set aside his own order dt. 30.05.2011 is illegal, contrary to law, without jurisdiction and against the principles of natural justice and therefore petitioner prayed that the impugned order dt. 27.06.2011 may be set aside.

4. In the impugned order it is stated that the vendor Sh. Ishwar Singh S/o Sh. Dungar Singh has not been served notice properly, so in exercise to the power conferred u/s 55 of Delhi Land Revenue Act, 1954, the Naib Tehsildar set aside his own order dt. 30.05.2011. However, there is nothing mentioned in the order of naib-tehsildar dt. 27.06.2011 that notice to the petitioner was issued or not.
5. The plain reading of Section 55 of Delhi Land Revenue Act 1954 reads as-

Section-55-No appeal from orders passed ex-parte or by default. Rehearing on proof of good cause for non-appearance-No appeal shall lie from an order passed under section ex-parte or by default; but in all such cases, if the party against whom judgment has been given appears either in person or by agent(if a plaintiff, within 30 days from the date of such order, and if a defendant within 30 days, after such order has been communicated to him, or after any process for enforcing the judgment has been executed or at any earlier period), and shows good cause for his non-appearance and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, revive the case and alter or rescind the order according to the merits of the case.

Provided that no such order shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and be heard in support of it.

6. I have carefully gone through the records available in file and heard the arguments of both parties at length. The Naib-Tehsildar in his impugned order dt. 27.06.2011 has erred in reversing his own order dt. 30.05.20011 without hearing the other party in whose favour the earlier order was passed. Since there is nothing in impugned order which shows that prior to passing of impugned order dated 27.06.2011, notices were issued to other parties. Hence, the impugned order dt. 27.06.2011 is bad in the eyes of law. However, end of justice would meet if the case is remanded back to Tehsildar concerned for fresh adjudication in a time bound manner.
7. I hereby ordered to set-aside the impugned order dt. 27.06.2011. The case is hereby remand back to Tehsildar with a direction to heard the parties of dispute and then pass speaking order in a time bound manner but not later than three months from the date of passing of this order.
8. This revision petition is disposed off accordingly.

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**NAINI JAYASEELAN,
FINANCIAL COMMISSIONER, DELHI
09th July, 2015**