

**(2018) 03 J&K CK 0043**  
**In the Jammu And Kashmir High Court**  
**Case No : OWP No.379 OF 2018**

RAM RATTAN & ANR

APPELLANT

Vs

FINANCIAL COMMISSIONER & OTHERS

RESPONDENT

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**Date of Decision :** 05-03-2018

**Acts Referred:**

Jammu and Kashmir Agrarian Reforms Act, 1976 — Section 18, 22, 27, 28A

**Citation :** (2018) 03 J&K CK 0043

**Hon'ble Judges :** ALOK ARADHE

**Bench :** Single Bench

**Final Decision :** Disposed Of

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## Judgement

The petition is admitted for hearing.Â

With the consent of the learned counsel for the parties, the matter is heard finally.

In this petition, the petitioners, inter alia, seek writ of certiorari for quashment of orders dated 07.12.2017 and 24.01.2018 passed by the Financial

Commissioner (Revenue), J&K.Â In order to appreciate the petitionersâ?? grievance few facts need mention which are stated infra:

The facts giving rise to the filing of the present writ petition briefly stated are that the father of respondent Nos.6 to 9 sold land measuring 5 Kanals 17

Marlas out of Khasra No.93 min, situated at Village Khanpur, Jammu, through duly executed and registered sale deeds to Sh. Rakesh Magotra and his

family members.Â The petitioner No.1 purchased 02 Kanals and 17 Marlas out of aforesaid land from Sh. Rakesh Magotra vide sale deed registered

on 11.02.2008 and the petitioner No.2 purchased 03 Kanals of land from Ravi Shanker Magotra and others being the successors of late Sh. Nek Ram

Magotra on 14.03.2009 out the aforesaid survey numbers. The petitioners were placed in possession of the land by the Vendors and the mutations were accordingly attested in the revenue records in their favour and they continue to be in actual physical possession of the aforesaid land. After the death of Sh. Om Parkash in the year 2008, the father of the respondent Nos.6 to 9, they started laying claim in respect of the land of the petitioners, and respondent Nos.7 to 9 filed a petition under Sections 22/28-A of the Agrarian Reforms Act and obtained an order of status quo on the spot on 02.05.2013. Thereafter, the aforesaid proceedings were not pursued by the respondent Nos.7 to 9 and the petitioner No.2 started raising his construction which now stands almost completed and is presently residing therein. However, respondent Nos.7 & 8 continued to interfere in the possession of the petitioner No.2. Thereafter, the petitioner No.1 started construction of his house on the land so purchased by him, but respondent Nos.7 to 9 filed a fresh petition under Sections 27 & 28-A of the Agrarian Reforms Act before the Assistant Commissioner (Revenue), Collector Agrarian Reforms, Jammu, who directed the maintenance of status quo vide Order dated 15.02.2017. The said order of status quo was withdrawn by the respondent No.4 against which an appeal was filed before the respondent No.1, who dismissed the same on the ground of jurisdiction on 27.06.2017. The respondent Nos.7 to 9 even approached the Special Tribunal, J&K, against the order dated 27.06.2017 passed by respondent No.1, who rejected the contention of respondent Nos.7 to 9 on 14.07.2017 and directed the respondent Nos.7 to 9 to appear before the respondent No.4- Assistant Commissioner (Revenue), Collector Agrarian Reforms, Jammu. The petitioners moved a transfer application before the respondent No.3 on 09.08.2017. During the pendency of the transfer application before the respondent No.3, respondent No.4 passed a status quo order dated 12.09.2017. The respondent No.3 vide order dated 15.09.2017 stayed the status quo order. Being aggrieved of the order passed by respondent No.3, respondent Nos.7 to 9 filed a writ petition being OWP No.1567/2017 before this Court, whereby respondent Nos.7 to 9 assailed the jurisdiction of the respondent No.3 to hear the transfer application and pass the order dated 15.09.2017. This Court vide order dated 02.11.2017 while disposing of the said writ petition has held that the Additional Deputy Commissioner (with powers of Commissioner Agrarian Reforms), Jammu, under Section 18

of the Agrarian Reforms act is the competent authority to hear the transfer application.Â

However, the petitioners filed another transfer application before the Additional Deputy Commissioner (with powers of Commissioner Agrarian

Reforms), Jammu.Â The respondent No.6 instead of contesting the matter before respondent No.3 moved an application before the respondent No.1-

Financial Commissioner (Revenue), J&K (with powers of Commissioner Agrarian Reforms), Jammu, who entertained the proceedings and issued a

status quo order dated 07.12.2017.Â Â In the aforesaid factual background the petitioners approached this Court.Â Â

When the matter was taken up today, learned counsel for the petitioners submitted that the impugned orders are bad per-se as the respondent No.3 is

the competent officer to hear the transfer application and the powers being exercised by respondent No.1 amounts to transgressing the jurisdiction of

the respondent No.3.Â On the other hand, learned counsel for the respondent Nos.7 to 9 has submitted that in view of the SRO 512 of 2014 dated

25.11.2014, the Financial Commissioner (Revenue), J&K (with powers of Commissioner Agrarian Reforms), Jammu, has supervisory control over the

officers subordinate to him and he is competent to entertain the proceedings.Â A Bench of this Court vide order dated 02.11.2017 while disposing of

the writ petition being OWP No.1567/2017, with regard to the dispute between the same parties, has held in paragraph 8, as under:

â??In view of the clear provisions of Section 18 of the Agrarian Reforms Act, the contention of the petitioners that Additional Deputy Commissioner

is only conferred with the power of Commissioner Agrarian Reforms for the purpose of hearing appeals under the Act is not tenable and rejected,

however, I find force in the submissions made by learned counsel for the petitioners that the Additional Deputy Commissioner being seized of an

application for transfer could not have passed the interim order as has been passed by him vide order impugned.Â The contention of the learned

counsel for the respondents that such power is inherent in the authority hearing the transfer application cannot be accepted.â??

The Additional Deputy Commissioner has been conferred with the powers of Agrarian Reforms, therefore, the Additional Deputy Commissioner being

seized of the application for transfer could not have passed the ad-interim order.Â Â

In view of the preceding analysis, the Financial Commissioner (Revenue) could not entertain the proceedings for transfer.Â In the result, the

impugned order dated 07.12.2017 is hereby quashed.Â Â Needless to state that respondent Nos. 6 to 9 shall be at liberty to approach the appropriate

forum with regard to their grievance.Â

With the aforesaid directions, the writ petition is disposed of accordingly, along with connected MPs.