(Bathama. Srinagar. Teh. Khas)

نمبر رجسٹر	تاریخ رجوع	تاریخ فیصلہ	نام حاکم	تعداد صفحات
311/FC-AP	9.10.23			

عنوان مقدمہ:- غلام محمد ملک وغیرہ بنام یو۔ٹی/محمد عباس وغیرہ

نگرانی بخلاف حکم:- Reference received from Addl. Commr: (S) with Div. Commr. KMR vide no:- Addcom(S)/Reader/437-Rev/699 Dt:- 6.10.23.

نمبر شمار	قسم کاغذات	تعداد صفحات
~~10.10.23~~		
14.11.23		

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Ghulam Mohammad Malik & ors
V/s
UT of J&K/Mohammad Abbas & Anr.

BEFORE THE COURT OF ADDITIONAL COMMISSIONER KASHMIR (S)
(PRESENT Mr. Qazi Sarwar, JKAS)

File No.
Rev-437

Date of Institution
16-07-2022

Date of Decision
12-09-2023

In the case of:

1. Ghulam Mohammad Malik
2. Ghulam Hussain Malik
   Sons of Late Qasim Malik
3. Tawseef Ahmad S/o Late Mst. Kulsooma
   All residents of Village Balhama, Tehsil Pantha Chowk
4. Mst Dilshada D/o Qasim Malik, W/o Mehboob Ali
   R/o At present Chenabal Mirgund, Pattan Baramulla.

(Petitioner/Applicants)

Versus

1. UT of J&K through Commissioner/Secretary Srinagar
2. Tehsildar Concerned, Mouza Balhama Tehsil Panthachowk
3. Patwari Halqa Balhama Block Khunmoh Srinagar
4. Mohammad Abbas
5. Mohammad Amin sons of Mst Fatima Rs/o Balhama Srinagar.

(Respondents)

In the matter of: Revision petition on behalf of the petitioners above named against the mutation no. 2171 in respect of survey no. 318 pertaining to the land situated at village Balhama, Srinagar, Mouza Balhama, Tehsil Khas, District Srinagar and for the same petitioners are seeking revocation of above said mutation number and be set aside the impugned mutation no. 2171 which has been authenticated and attested by respondent no.2 & 3 on 03.06.2022 and in view of these fake entries crept into the revenue records, the Tehsildar concerned may be directed for correction in the revenue records, the Tehsildar concerned may be directed for correction in the revenue entries in the records in respect of the above said mutation number and for attestation of fresh mutation in respect of the landed property of the petitioners strictly as per Muslim law and accordance with already existing revenue records (Intikhab-e-Jamabandi and Intikhab-e-Girdawari attested on 13.3.2021 and 19.6.2021) also within the procedure laid down in the L.R Act and enquiry be conducted against the erred revenue officials who inducted fake and fraud entries of mutation to the exclusion of above said petitioners who are in the real possession and ownership of the said land and same mutation numbers be set aside/revoked and correct the mutation number in the name of petitioners.

Rev(S)/90/9/10

ORDER

The instant revision petition was transferred to this court by Ld. Divisional Commissioner, Kashmir vide order no. Divcom/Reader/1787-91 dated 20.02.2023 for disposal under law. The instant petition was reserved for orders by then Divisional Commissioner, Kashmir but due to his transfer the orders could not be issued. After transfer of the instant case to this court it was listed for rehearing and reserved for orders after hearing the case on various dates.

Under challenge before this court through the medium of the instant revision petition is mutation no. 2171 in respect of survey no. 318 of land situated at village Balhama Srinagar, Tehsil Khas, District Srinagar.

The brief facts of the case as submitted by the counsel for the petitioners are that the petitioners are the descendants of same ancestors namely Mst Fatima D/o Mousin Mir W/o

Office of the Financial Commissioner J&K
Receipt
No: 1660
Date: 06/10/23

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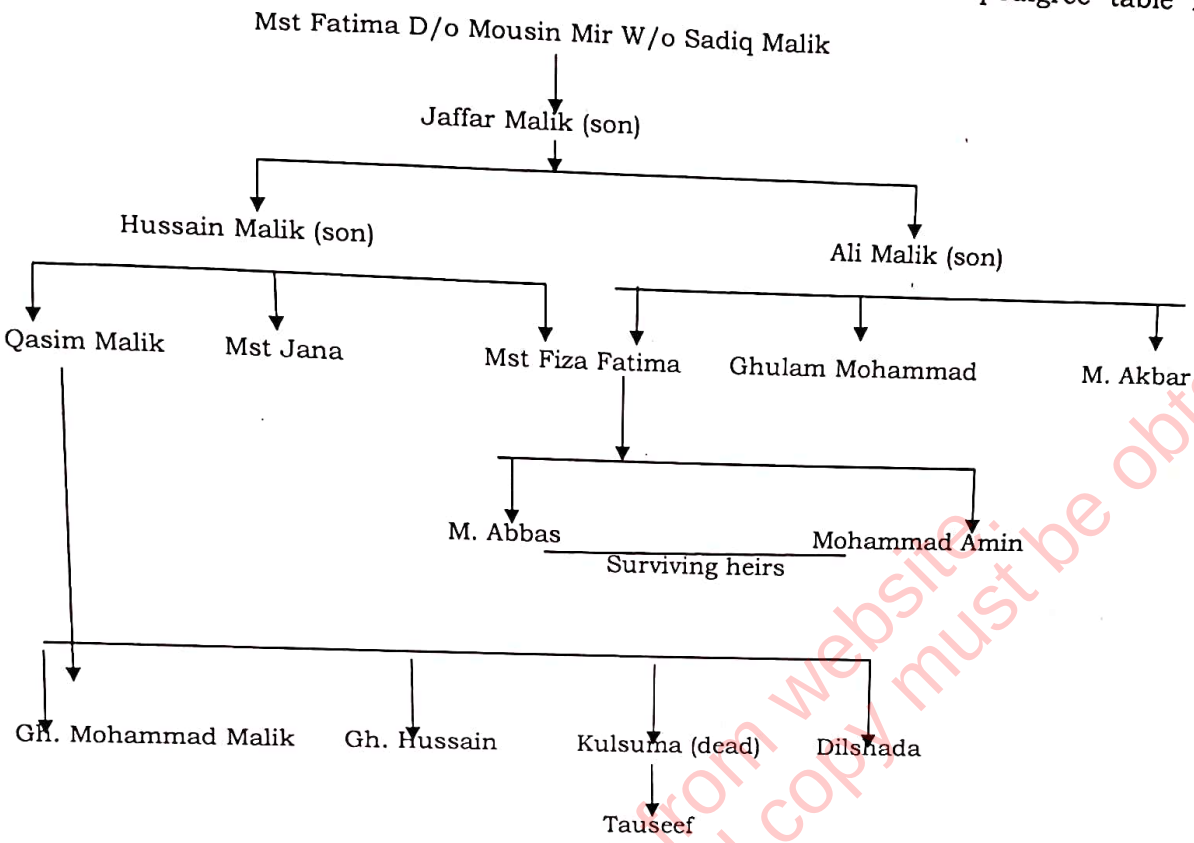
Sadiq Malik R/o village Balhama Srinagar who left her son Jaffar Malik as her lone legal heir who happened to be the grandfather of the petitioners, besides the petitioners there are other relatives owing their heir linage from the same ancestors. The pedigree table is given hereunder:



The immovable property left behind by the common ancestors of the petitioners and their cousins are 11 kanals and 14 marlas under survey numbers 316 (04 kanals 06 marlas) and 318 (07 kanals 08 marlas) which got devolved into two equal shares on legal heirs of Qasim Malik and Ali Malik and inheritance mutation has already been effected in their names in the revenue records under mutation no. 324. By virtue of impugned mutation a gift has been executed by Mohsin S/o Sabli Mir in favour of Mohammad Amin and Mohammad Abbas (respondent no 4 and 5 herein) sons of Ghulam Hyder.

The impugned mutation has been assailed by the petitioners through their counsel on grounds that the impugned mutation is based on fraud as the donor had already expired some 260 years before the birth of the private respondents and also the physical possession of the land in question lies with the petitioners. It has been further stated that the mutation is to be effected as per registered document as envisaged u/s 17 of Registration Act which is missing in the instant case.

The respondents are represented through their counsel who has filed the written statement/version on behalf of the private respondents wherein it has been prayed that the impugned mutation no. 2171 pertaining to the survey no. 318 with regard to the gift of land measuring 02 kanals situated at Balhama be allowed to quash/rescind/recall for the benefit of rights and interests of the parties.

The counsel for the petitioners filed rebuttal in response to the objections of the respondents wherein it has been prayed to declare the impugned mutation null and void in wake of the written version submitted by the counsel for respondents.

Heard and perused the records.

The counsel for the respondents in his written statement/version has admitted the impugned mutation to be outcome of fraud as the donor, who is great grandfather of the parties, had

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died some 260 years before the respondents in whose name the land in question has been mutated through impugned mutation.
Owing to the admission of the respondents, the impugned mutation warrants setting aside to the extent of survey no. 318 measuring 02 kanals.
For the foregoing reasons, the revision petition is accepted and the case is submitted to Ld. Financial Commissioner, Revenue J&K with the recommendation that the impugned mutation to the extent of of survey no. 318 measuring 02 kanals be set aside. The parties are directed to appear before the Court of Ld. Financial Commissioner, Revenue J&K on 18-10-2023.

Announced
12-09-2023

Additional Commissioner (S)
Kashmir

No:- Addcom(s)/Reader/437-Rev/699
Dt:- 06/10/23

Submitted in Original to the Ld. Financial Commissioner, Revenue, JrK alongwith original file containing 98 leaves.

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