

Government of Jammu & Kashmir
OFFICE OF THE TEHSILDAR NAGSENI

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Sub:- Eviction of unlawful encroachment from State Land bearing Khasra No. 1409/1345/86min measuring 01 Kanal from Lass S/o Bhar Mochi Kasht Talib Hussain and others sons of Noor Mohd Gujjer R/o Sumna Bhatta, Nagseni Tehsil Nagseni District Kishtwar.

ORDER

- Ref:-
1. Hon'ble Supreme Court Order/Judgment dated:- 28.01.2011, passed in Civil Appeal No:- 1132/2011 titled Jagpal Singh v/s State of Punjab and others.
 2. Govt. Order No:- Rev/Lit/218 of 2011 dated:- 28.11.2011
 3. Orders issued by the Hon'ble High Court of J&K in PIL No. 19/2011 titled SK Bhalla VS State of J&K and others.
 4. Direction/Judgement passed in the Worthy Court of Financial Commissioner, Revenue (Commissioner Agrarian Reforms) J&K, file No. 250/FC-AP dated:- 10.03.2014 in Case tiled Hasan Mohammad & Others v/s State of J&K through Commissioner/Secretary to the Government, Forest Department, Deputy Commissioner Jammu & Others.
 5. Government Order NO:- 135-Rev(NDK) of 2015 issued by Government of J&K, Revenue Department.
 6. Circular instructions issued by Worthy Divisional Commissioner Jammu vide No:- 601/RA/WPPIL-19/2011/719-31 dated:- 17.11.2015.
 7. Directions issued by worthy Deputy Commissioner Kishtwar.
 8. Agrarian Reforms Act, 1976.
 9. Land Revenue Act, 1996 (1939 AD).
 10. This office Letter No:- 320/TN/Gen/18-19 dated:- 30.07.2018.

1. Whereas, the Hon'ble Supreme Court vide Order/Judgment dated:- 28.01.2011, passed in civil appeal No:- 1132/2011 titled Jagpal Singh VS State of Punjab and others directed all the State Governments in the country for eviction of illegal/unauthorized occupants of the Gram Sabha/Gram Panchayat /Paramboke Shamlat/Common land and restoration of the same to its original status.

2. Whereas, the Hon'ble High Court of J&K in PIL No:- 119/2011 titled S.K. Bhalla VS State of J&K and others directed the Revenue Department to remove all the encroachment on State/Kacharai/Common Land and submit compliance in this regard.

No-470/ACR/14

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3. Whereas, Govt. Order No:- Rev/Lit/218 of 2011 dated:- 28.11.2011 issued by Govt. of J&K also provides for removal of encroachment on Common Land, Non-Partible Shamlat Lands, Kacharai Lands etc.
4. Whereas, the Worthy Court of Financial Commissioner, Revenue (Commissioner Agrarian Reforms) J&K, file No. 250/FC-AP dated:- 10.03.2014 in Case tiled Hasan Mohammad & Others v/s State of J&K through Commissioner/Secretary to the Government, Forest Department, Deputy Commissioner Jammu & Others directed that the Government is an owner of big chunks of land scattered throughout the State and its everyone's duty to respect and protect the properties belonging to the State, more so when it is a forest. If a person comes and encroaches on Government Land, he should be evicted there from as soon as it comes to the notice of public authorities irrespective of any entry made in the records.
5. Whereas, Section 13 of the Agrarian Reforms Act, 1976 lays down that no person shall hold land otherwise than for personal cultivation. If any person contravenes this provision, all his/her rights, interest and title in the land shall vest in the state. This provision applies *mutatis mutandis* to the State Land also meaning thereby that after the commencement of this Act, no one can be an illegal/unauthorized tenant of the State Land. What is required to be considered is that the land in either case (privately owned/State owned with creations of illegal/unauthorized tenancy) has to be vested in the State. This again clarifies that any illegal/unauthorized/non-permissible and unsustainable entries made on State Land in favour of any illegal encroacher are to be treated as null and void *ab-initio*.
6. Whereas, vide Govt. Order No:- 135-Rev (NDK) of 2015 dated:- 25.08.2015, the Government issued directions for eviction of unauthorized occupants from State/Common Land.
7. Whereas, the Worthy Divisional Commissioner Jammu vide circular instructions No:- 601/RA/WPPIL-19/2011/719-31 Dated:- 17.11.2015, also issued detailed instructions regarding removal of encroachments on State/Kahcharai/Common Land and directed for implementation of the directions of the Hon'ble High Court as mentioned in para-2.
8. Whereas, section 133 (2) (c) of the Land Revenue Act, 1996 (1939 AD), provides that when any person, without due authority has taken possession of land belonging to the Government, a Revenue Officer empowered in this behalf by the Government of his own motion or on an application of any interested person, may eject the person so encroaching upon or cultivating such land and take possession of the same without paying any compensation for crops

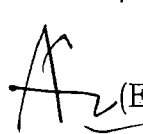
or improvements, and may also, by order duly proclaimed, forbid repetition of the encroachments.

Therefore, in reference to the Hon'ble Supreme Court & Hon'ble High Court Judgments and directions respectively/Acts & Rules /Government Orders/Circulars issued from time to time as cited above in para 1 to para 8, wherein, strict directions have been issued for eviction of all illegal/unauthorized and non-permissible occupants from State/Common/Kacharai/Forest Land **AND** all such illegal/unauthorized/non-permissible and unsustainable entries in the revenue record be expunged and treated to be null and void *ab-initio* and accordingly, the illegal/unauthorized and non-permissible occupant as per the subject cited is hereby evicted for its illegal encroachment bearing Khasra No. **1409/1345/86min** measuring **01 Kanal** from **Lass S/o Bhar Mochi Kasht Talib Hussain and others sons of Noor Mohd Gujjer R/o Sumna Bhatta, Nagseni** Tehsil **Nagseni** District **Kishtwar** and the status of land is restored to its original/lawful status.

The Patwari Halqa Bhagna is hereby directed to comply with the Judgments and directions of the Hon'ble Supreme Court & Hon'ble High Court /Acts & Rules /Government Orders/Circulars issued from time to time as cited above in para 1 to para 8 and expunge all such entries from Revenue record under rule. The compliance (Amal Dar-Amad) of this order be made with red ink in revenue record and accordingly compliance in this regard be furnished to this office.

No: TN/Gen/2019-20/Eviction/1382-87

Dated: 19/02/2020


(Er.) Naytem Jopal Sheikh, (KAS)
Tehsildar,
NAGSENI
(Assistant Collector, 1st Class)
Nagseni.

Copy to the:-

1. Deputy Commissioner Kishtwar for favour of kind information please.
2. Additional Deputy Commissioner Kishtwar for favour of kind information please.
3. Assistant Commissioner (Revenue) Kishtwar for favour of kind information please.
4. Naib Tehsildar Nagseni for information & necessary action and direction to seek compliance after proper remarks (Kafiat) are entered in record by Patwaries concerned.
5. Patwar Halqa Bhagna for information and strict time bound action.
6. Office Record.