(2014) 12 RAJ CK 0063

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9117/2014

Amra Ram and Others APPELLANT

Vs

State of Rajasthan and Others RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Rajasthan Land Revenue Act, 1956 — Section 75, 75(1)(b)

Citation : (2015) 1 WLN 198

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Moti Singh, Advocates for the Appellant

Judgement

Arun Bhansali, J.—This writ petition is directed against the order dt. 09.04.2014 passed by the Sub Divisional Officer, Siwana (Barmer) ("the SDO"). The respondent Meero Devi filed application for conversion, which came to be decided by the SDO by order dt. 30.12.2010 (Annexure-8).

2. Feeling aggrieved, the petitioners filed an appeal before the Revenue Appellate Authority, Jodhpur ("the RAA"). The RAA by its judgment dt. 19.10.2012 partly allowed the appeal and after setting aside the order dt. 30.12.2010 remanded back the matter to the SDO.

3. Aggrieved against the order passed by the RAA, the applicant Meero Devi approached the Board of Revenue ("the Board"). The Board by its order dt. 10.02.2014 dismissed the appeals filed by Meero Devi and upheld the order dt. 19.10.2012 passed by the RAA and directed the SDO, Siwana to himself inspect the land in question and keeping in view the observations made by the Board, pass fresh order within a period of three months.

4. In pursuance of the order passed by the Board and the earlier order dt. 19.10.2012 passed by the RAA, the SDO, Siwana has passed the order dt. 09.04.2014, which is sought to be questioned by way of the present writ petition.

5. When counsel for the petitioners was asked about non-availing the alternative remedy of appeal under Sec. 75 of the Rajasthan Land Revenue Act, 1956 (''the Act''), learned counsel submitted that the SDO, Siwana has not re-registered the original proceedings pursuant to the directions of the RAA and the Board, the order passed cannot be said to be an original order and it is only against the original order that the appeal under Sec. 75(1)(b) of the Act is maintainable.

6. Provision of Section 75 of the Act reads as under:-

"75. First Appeals.-(1) Save when otherwise provided in this Act, a first appeal shall lie-

[(a) to the Collector from an original order passed by a Tehsildar in matters not connected with settlement or land records,

(b) to the [revenue appellate authority] from an original order passed by an Assistant Collector or a Sub-Divisional Officer or a Collector in matter not connected with settlement,]"

7. A bare look at the provision indicates that a first appeal lies to the Revenue Appellate Authority from an original order passed by a Assistant Collector or a Sub Divisional Officer or a Collector in matter not connected with settlement.-

8. Merely because the SDO in pursuance to the order dt. 19.10.2012 passed by the RAA as upheld by order dt. 10.02.2014 by the Board, did not reregister the cases, which it should have, the orders passed by him on 09.04.2014 does not cease to be an original order and it cannot be said that the said order is not appealable under Sec. 75(1)(b) of the Act.

9. In view thereof, the submission made by learned counsel for the petitioners has no substance. The petitioners have alternative remedy of filing appeal before the Revenue Appellate Authority and as such on account of availability of the said alternative remedy, this writ petition cannot be entertained. The same is, therefore, dismissed, with liberty to the petitioners to avail the alternative remedy, if so advised. The stay petition is also dismissed.