
(2014) 03 RAJ CK 0121

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 273/2014

Bhanwar Singh and Others

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Rajasthan Tenancy Act, 1955 — Section 188, 5(24), 88, 91, 92A

Citation : (2014) 03 RAJ CK 0121

Hon'ble Judges : Amitava Roy, C.J.;Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : K.K. Mehrishi, Senior Advocate Assisted by Mr. Timan Singh,
Advocate for the Appellant; Devendra Raghav, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. In challenge is the judgment and order dated 16.12.2013 passed in S.B. Civil Writ Petition No. 6488/2008.

2. We have heard Mr. K.K. Mehrishi, Senior Advocate assisted by Mr. Timan Singh for the appellants and Mr. Devendra Raghav, learned for the respondents.

3. The recorded facts in short are that the predecessor-in-interest of the appellants herein i.e. Karan Singh had instituted a suit in the Court of Sub Divisional Officer, Bhawani Mandi under Sections 88/188 and 91 of the Rajasthan Tenancy Act, 1955 (for short, hereafter referred to as "the Act") against Kalu Singh, the predecessor-in-interest of the respondents No. 4.1 to 4.9 and another seeking a decree for declaration of his title therein as khatedar of land measuring 1 bigha & 14 biswa included in khasra No. 1178 situated in Village Dudhaliya, Tehsil Gangdhar, District Jhalawar and also for perpetual injunction against the defendants. The claim was based on an agreement of sale dated 14.2.1978 between Karan Singh and Kalu Singh, who was the recorded khatedar thereof. It was pleaded that following such agreement, the possession of the land involved was formally delivered to the plaintiff, and that, since then he had been

continuing as khatedar tenant in respect thereof. It was pleaded as well that before execution of the agreement, the plaintiff had been cultivating the land since five years prior thereto. Admittedly however, no sale deed between the parties was registered involving the said land thereafter. Alleging that the defendant Kalu Singh was instead contemplating to sell the land to others to his detriment, Karan Singh instituted the suit seeking the above reliefs. On receiving the summons, the defendant Kalu Singh entered appearance and filed his written statement denying these averments made in the plaint. The execution of the agreement of sale dated 14.2.1978 as well as receipt of an amount of Rs. 12,500/- in connection with transaction, was denied. That the suit land had been handed over to the plaintiff Kalu Singh was denied as well. It was alleged that the document dated 14.2.1978 was a forged one. The learned Sub Divisional Officer, Bhawani Mandi, after a full contest, by his judgment and order dated 9.2.1995, decreed the suit and declared the plaintiff Karan Singh to be the khatedar of the suit land and ordered that his name be entered in the revenue records. A decree of perpetual injunction was also granted restraining the defendant Kalu Singh from interfering with his possession.

4. Being aggrieved by this adjudication, the predecessor-in-interest of the respondents No. 4.1 to 4.9 herein preferred an appeal being appeal No. 32/98 before the Revenue Appellate Authority, Kota. By order dated 21.3.1998, the said forum interfered with the decree. The appellants, having unsuccessfully appealed against the same before the learned Board of Revenue, Ajmer, have turned to this Court seeking to invoke its writ jurisdiction under Article 226 of the Constitution of India.

5. By the judgment and ordered assailed herein, their challenge has been negated.

6. Mr. Mehrishi has urged that though in the facts and circumstances of the present case, the suit filed by the predecessor-in-interest of the appellants for declaration of his status as khatedar tenant of the land is untenable, his prayer for perpetual injunction even as a possessor thereof, and more particularly, in the background of the agreement of sale, is sustainable in terms of Section 92A of the Act. Referring to the definition of "land" provided in Section 5(24) of the Act, the learned senior counsel has insisted that as the same let or held for agricultural purposes is legislatively intended to be within the purview of the enactment, it signifies that any person holding the land for agricultural purposes simpliciter is entitled to the benefit of protection of the provisions thereof. In that view of the matter, Mr. Mehrishi has urged that the suit for permanent injunction of the predecessor-in-interest of the appellants herein is maintainable u/s 92A of the Act, and thus, the learned Revenue Appellate Authority, Kota, the Board of Revenue, Ajmer and the learned Single Judge had erred in dismissing his suit as a whole. In support of his contentions, the learned senior counsel has placed reliance, amongst others, on the decisions of the Hon"ble Apex Court in Krishna Ram Mahale (Dead), by his Lrs. Vs. Mrs. Shobha Venkat Rao, and Rame Gowda

(D) by Lrs. Vs. M. Varadappa Naidu (D) by Lrs. and Another, .

7. In reply, Mr. Raghav has argued that not only the agreement of sale, the execution whereof is disputed by the respondents, does not even otherwise confer any title on the appellants or their predecessor-in-interest, as admittedly, Karan Singh (since deceased) had never been a tenant in respect of the land involved under Kalu Singh (since deceased), the suit for injunction u/s 92A is not maintainable, and thus, the decision dismissing it as a whole, as recorded by the Revenue Appellate Authority, Kota, the Board of Revenue, Ajmer and the learned Single Judge can, by no means, be faulted. According to him, the authorities cited at the Bar have no application to the facts of the present case.

8. We have examined the rival pleadings and also duly analyzed the arguments advanced.

9. A perusal of the decisions rendered by the Revenue Appellate Authority, Kota, the learned Board of Revenue, Ajmer and the learned Single Judge would evince that the suit of the predecessor-in-interest of the appellants had been dismissed, chiefly on the ground that the agreement dated 14.2.1978 per se did not confer any title on him to seek a declaration of the status of khatedar tenant, consequently entitling him to have his name registered in the revenue records.

10. As adverted to hereinabove, the learned senior counsel for the appellants, in course of his arguments has, in all fairness, admitted that a suit for such declaration on the basis of the agreement to sale is not tenable. He however, has emphatically insisted that a suit for permanent injunction is contemplated u/s 92A, and thus, the learned Revenue Appellate Authority, Kota, the learned Board of Revenue, Ajmer and the learned Single Judge had erred in dismissing the suit as a whole.

11. Section 92A of the Act dealing with suit for injunction being of decisive relevance is quoted hereinbelow:-

92A. Suit for injunction-Except as otherwise, specifically provided elsewhere in this Act, any person may sue, in respect of all or any of his rights conferred by this Act, for an injunction in accordance with and subject to the provisions of Chapter X of the Specific Relief Act, 1877 (Central Act of 1877).

12. It would transpire from the above provision that thereunder, any person may sue in respect of all or any of his rights conferred by the Act for an injunction in accordance with and subject to the provisions of Chapter X of the Specific Relief Act, 1877, except as otherwise specifically provided elsewhere in the enactment. A plain reading of the section thus, testifies that unless specifically provided otherwise by the Act, a person may sue for an injunction under the Act in respect of all or any of his rights conferred thereby, and not in any other eventuality. Reference to the provisions of Chapter X of the Specific Relief Act, 1877 is only to underline the essential features of the theory of injunction as contemplated in law and cannot be construed to expand the purview of entitlement therefor, as

otherwise legislatively ordained. The Act being a special legislation and Section 92A having been singularly framed to define the contingencies in which a suit for injunction can be instituted, the contours thereof can neither be constricted nor widened, unless permitted by the enactment. Our attention has not been drawn to any other provision of the Act to visualize any eventuality other than those envisioned in Section 92A for the application thereof. Reference to the definition of land in Section 5(24) of the Act, in our opinion, also does not advance the case of the appellants as thereby, no right in them or in their predecessor-in-interest is even remotely conferred thereby vis-a-vis the land involved. Having regard to the extremely guarded language applied in Section 92A, we are thus, not persuaded to accept the contentions raised on behalf of the appellants in this regard. The decisions of the Hon''ble Apex Court in *Rame Gowda (D) by LRs. (supra)* and *Krishna Ram Mahale (dead) by his LRs. (supra)* to the effect that when a person is in any settled possession of property, even on the assumption that he had no right to remain thereon, he cannot be dispossessed without taking due recourse to law, though admits of no debate, those are of no avail to the appellants, in the face of a clear and unequivocal provision circumscribing the eventualities for institution of a suit for injunction. The decisions of the learned Board of Revenue in *L.Rs. of Sunda Ram Vs. L.Rs. of Ram Kishore & Anr.*, RRD 1997 438 and *Ram Dayal Vs. Kana & Ors.*, RRD 1996 337 are apparently founded on the contextual facts and do not lay down any legal principle of uniform application. On an interpretation of Section 92A of the Act, we are of the view that in the face of the express legislative intendment qua injunction under the Act as is engrafted therein, a suit for such relief would be maintainable only and only if the conditions precedent therefor, as prescribed therein, do exist. The materials on records do not testify any right in the appellants or their predecessor-in-interest, *Karan Singh* qua the suit land to permit refuge of Section 92A of the Act.

13. On an overall consideration of the relevant aspects bearing on the lis, we see no cogent reason to interfere with the impugned judgment and order.

14. The appeal lacks in substance and is dismissed. The stay application also stands rejected.