
(1951) 09 RAJ CK 0020
In the Rajasthan High Court
Case No : Original Application No. 30 of 1951

Bhoransingh

APPELLANT

Vs

Revenue Board of Rajasthan

RESPONDENT

Date of Decision : 12-09-1951

Acts Referred:

Constitution of India, 1950 — Article 15

Rajasthan (Protection of Tenants) Ordinance, 1949 — Section 7

Citation : AIR 1953 Raj 4 : (1952) RLW 25

Hon'ble Judges : K.D. Sharma, J;J.S. Ranawat, J

Bench : Division Bench

Advocate : B.B. Sharma, for the Appellant; A.S. Chaturvedi, for Opposite Party No. 2 and Ram Avtar Gupta, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ranawat, J.—This is an application under Article 226 of the Constitution of India. The facts of this case are that Surajmal and Rawti filed an application u/s 7 of the Rajasthan Tenants' Protection Ordinance in the court of the special Sub-divisional Officer, Bharatpur, for reinstatement on the land khasra Nos. 87, 88, 91, 95 and 120 in Tahsil Rupbas on the ground that they were in possession of the land on the 1st of April 1948, and that they were dispossessed by the landlords on the 20th of July 1949. The Special Sub-divisional Officer at first allowed the application of Surajmal and Rawti, but after further enquiry rejected it. Surajmal and Rawti then filed a revision application in the Rajasthan Board of Revenue and their application was allowed, on the 22nd March 1951, and they were ordered to be put in possession of the disputed land. This application has been filed against the judgment of the Rajasthan Revenue Board dated the 22nd March 1951.

2. The petitioner has raised the following points in this application :

1. The tenants Surajmal and Rawti had failed to prove the fact of their being ejected or dispossessed from the disputed land and as such the Sub-divisional

Officer or the Rajasthan Revenue Board had no jurisdiction to order the possession of the disputed land to be handed over to them u/s 7 of the Rajasthan Tenants' Protection Ordinance.

2. While the case was pending in the Rajasthan Revenue Board, a compromise was entered into by the parties under the terms of which the tenants Surajmal and Rawti undertook not to press the revision application in the Rajasthan Revenue Board. They endorsed their desire not to press the revision application on the back of the summonses which were issued to them by the Rajasthan Revenue Board. The fact of the compromise was not enquired into by the Rajasthan Revenue Board and the revision application was decided on the merits. In doing so, the Rajasthan Revenue Board ignored the provisions of the CPC and exercised the jurisdiction illegally. Rule 53 of the Rules framed by the Government for the guidance of the Rajasthan Revenue Board, which was referred to by the Board of Revenue in its judgment did not empower the Board of Revenue to ignore the fact of the compromise.

3. The Senior Member of the Rajasthan Board of Revenue, Mr. Altaf Ahmad Kherie, decided the case on the 22nd February 1951, subject to the concurrence of his learned colleague, and the Junior Member of the Board of Revenue gave his concurrence on the 25th of February 1951 without hearing any of the parties. The procedure adopted by the Junior Member in expressing his opinion without hearing the parties was unjust and against the principles of natural justice. Such a procedure was not authorised by law.

4. The provisions of the Rajasthan Tenants Protection Ordinance are repugnant to Article 15 of the Constitution of India inasmuch as the fundamental rights of the landlords are infringed by discriminating their rights and by allowing protection to the tenants regarding their reinstatement on the lands from which they were ejected or dispossessed.

5. The Rajpramukh of Rajasthan has no jurisdiction to make any laws so far as the area of the former Bharatpur State is concerned as His Highness the Maharaja of Bharatpur State who gave his consent to the merger of the territories of the former Bharatpur State in the Matsya Union, had no legislative powers himself, which were at that time vested in a body of persons called by the name of Birjia Samiti. His Highness the Maharaja of Bharatpur could transfer only such of the powers as he had himself possessed and as His Highness did not possess any legislative powers, he could not have transferred those powers to the Rajpramukh of Matsya Union and thereafter the Rajpramukh of Matsya Union could not have transferred such powers to the Rajpramukh of Rajasthan. A rule was issued to the opposite party and a reply has been filed by the Deputy Registrar of the Rajasthan Revenue Board in which the points raised by the petitioner were not admitted by the opposite party.

3. It may be observed that it is not for this court to go into the findings of fact arrived at by the Revenue Courts. Whether the tenants were dispossessed by the

landlords or not was a question of fact to be decided by the court of the Sub-divisional Officer or the Board of Revenue for Rajasthan and the decisions of those courts are to be deemed to be final on the subject. This court cannot sit in appeal over the judgment of the Revenue Board in matters which lie within the jurisdiction of that court. The learned counsel for the petitioners has failed to bring to the notice of this court any law which was binding on the Rajasthan Revenue Board and in accordance to which it was incumbent on that court to make an enquiry regarding the fact of compromise. It cannot therefore be said that the Rajasthan Revenue Board committed illegality in ignoring the fact of compromise and in not holding an enquiry about it.

The Rajasthan Tenants' Protection Ordinance cannot be regarded as a whole to be contrary to the provisions of Article 15 of the Constitution of India. The effect of the provisions of the Rajasthan Tenants' Protection Ordinance is to give protection to certain tenants and to secure status quo in the relations of the landlords and tenants as regards occupation of the agricultural holdings. Such an arrangement cannot be regarded as discrimination against any citizen on grounds only of religion, race, caste, sex etc.

The introductory provisions of the Constitution of the then Bharatpur State, it may be pointed out, vested all the powers in His Highness the Maharaja of Bharatpur which were exercised by the Council during his minority. It is not disputed that the Minority Council exercised legislative functions as well. It is therefore not proper to say that His Highness the Maharaja of Bharatpur had no legislative powers. The Brijia Samiti, under the Constitution of Bharatpur State, had advisory functions only and so far as the law-making powers were concerned, they were vested in His Highness the Maharaja of Bharatpur. Certain provisions of the Constitution of the then Bharatpur State made it necessary for all laws to be placed before the Samiti, but the authority of His Highness in giving consent to the merger of the State cannot be questioned on this account. The contention that His Highness the Maharaja of Bharatpur had no legislative powers is therefore not correct. The ruler of Bharatpur possessed the powers to make laws for Bharatpur State and it was not beyond the Scope of his authority to enter into an arrangement regarding merger of Bharatpur State in the Matsya Union. This is a fact which cannot now be challenged. Under the terms of the covenant for the formation of Rajasthan and that of the merger of Matsya Union in the State of Rajasthan, the Legislative functions for the area of the former Bharatpur State are vested in the Rajpramukh of Rajasthan and consequently the Rajasthan Tenants' Protection Ordinance which was enacted by the Rajpramukh of Rajasthan cannot be regarded as ultra vires.

4. According to the rules of the Rajasthan Revenue Board, it was not necessary for the Junior Member of the Revenue Board to hear the parties before giving his concurrence to the judgment of the Senior Member of the Revenue Board. The argument that according to the principles of natural justice and procedure, it was necessary for the Junior Member of the Board of Revenue to hear the parties

before giving his concurrence to the judgment of the other Member, does not appear to be well founded. It is for the framers of the law to lay down the procedure as regards the hearing of the cases by the Courts and if it is not necessary to hear the parties according to the provisions of the procedure, it cannot be agitated that the judgments of the authorities which are competent to dispose of such matters, become ultra vires on the ground that the parties are not allowed an opportunity of being heard. In the present case, under the rules of procedure of the Rajasthan Revenue Board, as has already been said above, it was not required to hear the parties before giving concurrence to the judgment of one of the Members of the Board of Revenue. Under these circumstances, the objections of the petitioner have no force.

5. This application fails and is dismissed with costs. Counsel's fee is fixed at Rs. 50.

Sharma, J.

6. I agree.