
(2010) 07 BOM CK 0092
In the Bombay High Court
Case No : Civil Writ Petition No. 6265 of 2010

Birbal Ram

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 19-07-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 07 BOM CK 0092

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Advocate : Varun Goyal, for the Appellant;

Final Decision : Dismissed

Judgement

Govind Mathur, J.—This petition for writ is preferred to challenge the order dated 23.4.2010 passed by Board of Revenue, Rajasthan, Ajmer rejecting the appeal preferred by the petitioner to challenge the order dated 5.8.1985 passed by the Additional Collector, Jodhpur declaring a part of land as escheat property as per provisions of the Rajasthan Escheats Regulation Act, 1956 (hereinafter referred to as "the Act of 1956").

2. In brief, facts of the case are that on behalf of the State the Tehsildar Phalodi submitted an application before the Additional Collector, Jodhpur to initiate proceedings and to declare a part of agricultural land under the khatedari of Smt. Kishturi widow of Jashwanta as escheat. Accordingly, a notification as per Section 6 of the Act of 1956 was issued and after due process under the order dated 5.8.1985 the Additional Collector referred the matter to the District Judge, Jodhpur for declaration of the property concerned as escheat in accordance with Section 9(2) of the Act of 1956. The District Judge by order dated 10.8.1989 issued a declaration accordingly. Giving challenge to the order dated 5.8.1985 the present petitioner preferred an appeal before the Board of Revenue, Rajasthan, Ajmer in the year 2010 and that came to be rejected being barred by limitation and also on the count that the order dated 5.8.1985 stood merged with

the declaration made by District Judge, Jodhpur and no challenge to that was given before the competent court.

3. While challenging the judgment impugned the argument advanced by counsel for the petitioner is that the property in question being agricultural land could have not been dealt with as per provisions of the Act of 1956, therefore, the order passed by the Additional Collector is non-est in eye of law and as such no limitation prescribed under the statute to appeal is applicable.

4. I have considered the arguments advanced and also examined the orders impugned.

5. As already stated above, the Additional Collector after reaching at the conclusion that the property in question was escheat referred the matter to the District Judge, Jodhpur and the District Judge, Jodhpur made a declaration as per provisions of Section 9(2) of the Act of 1956. No challenge has been given by the petitioner to the declaration made. No satisfactory explanation is also given by the petitioner for causing a delay of 25 years in challenging the order impugned. No error thus appears with the order impugned.

6. Accordingly, I am not inclined to interfere with the order impugned while exercising powers under Articles 226 and 227 of the Constitution of India.

7. Thus, the petition for writ is dismissed.